



JUDICIARY COMMITTEE

MEETING PACKET

Wednesday, February 22, 2006

10:15 a.m. – 12:00 p.m.

**Morris Hall
(17 HOB)**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

Judiciary Committee

Start Date and Time: Wednesday, February 22, 2006 10:15 am

End Date and Time: Wednesday, February 22, 2006 12:00 pm

Location: Morris Hall (17 HOB)

Duration: 1.75 hrs

Consideration of the following bill(s):

HJR 33 Homestead Property Assessments by Domino

HJR 39 Limitations on Assessments of Residential and Commercial Property by Farkas

HB 129 Lawful Ownership, Possession, and Use of Firearms and Other Weapons by Baxley

Consideration of the following proposed committee bill(s):

PCB JU 06-03 -- Vested Governmental Powers

PCB JU 06-04 -- Land Trusts

Workshop on the following PCB:

PCB JU 06-05 -- Constitutional Revision

NOTICE FINALIZED on 02/10/2006 15:03 by Williams.Tanesha



Florida House of Representatives

Judiciary Committee

Allan G. Bense
Speaker

David Simmons
Chair

COMMITTEE ON JUDICIARY

Morris Hall (17 HOB)

February 22, 2006

10:15 a.m. – 12:00 p.m.

Agenda

1. Call to order
2. Roll call
3. Welcome and opening remarks

Representative David Simmons, Chair

4. Consideration of the following proposed committee bill:

PCB JU 06-03	Judiciary	Vested Governmental Powers (will not be taken up today)
PCB JU 06-04	Judiciary	Land Trusts

5. Consideration of the following bills:

<u>Bill</u>	<u>Sponsor(s)</u>	<u>Title</u>
HJR 33	Domino	Homestead Property Assessments
HJR 39	Farkas	Limitations on Assessments of Residential and Commercial Property
HB 129	Baxley	Lawful Ownership, Possession, and Use of Firearms and Other Weapons

6. Workshop on the following proposed committee bill:

PCB JU 06-05

Judiciary

Constitutional Revision

7. Closing remarks

Representative David Simmons, Chair

8. Adjournment

**PCB JU 06-03 – Vested Governmental Powers,
will not be taken up, but will be considered at a subsequent meeting.
Therefore, a bill analysis has not been included in this packet.**

PCB JU 06-03

Vested Governmental Powers

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House Joint Resolution

A joint resolution proposing amendments to Section 3 of Article II, Section 1 of Article III, and Section 12 of Article X, and the creation of Section 26 of Article XII, of the State Constitution; revising provisions relating to vested governmental powers; providing that a person belonging to one branch of state government cannot impose, apply, or enforce a limitation on a power that is part of a function of any of the other branches of government unless imposing, applying or enforcing the limitation is expressly provided in the state constitution; providing that nothing in the state constitution is to be interpreted as limiting the power vested in the legislature except as expressly limited in the state constitution; providing rules of construction to be used when interpreting the extent of vested governmental powers.

Be It Resolved by the Legislature of the State of Florida:

That the following amendments to Section 3 of Article II, Section 1 of Article III, and Section 12 of Article X, and the following creation of Section 26 of Article XII, of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE II

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Vested Governmental Powers

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GENERAL PROVISIONS

SECTION 3. Branches of government.—

The powers of the state government shall be divided into legislative, executive and judicial branches. No person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein. No person belonging to one branch shall impose, apply, or enforce a limitation on the power appertaining to any of the other branches, unless the limitation is expressly provided herein.

ARTICLE III

LEGISLATURE

SECTION 1. Composition; power.—

The legislative power of the state shall be vested in a legislature of the State of Florida, consisting of a senate composed of one senator elected from each senatorial district and a house of representatives composed of one member elected from each representative district. Nothing in this constitution shall be interpreted to limit the power vested in the legislature, except as expressly limited herein.

ARTICLE X

MISCELLANEOUS

SECTION 12. Rules of construction.—

Unless qualified in the text the following rules of construction shall apply to this constitution.

- (a) "Herein" refers to the entire constitution.
- (b) The singular includes the plural.
- (c) The masculine includes the feminine.

(d) "Vote of the electors" means the vote of the majority of those voting on the matter in an election, general or special, in which those participating are limited to the electors of the governmental unit referred to in the text.

(e) Vote or other action of a legislative house or other governmental body means the vote or action of a majority or other specified percentage of those members voting on the matter. "Of the membership" means "of all members thereof."

(f) The terms "judicial office," "justices" and "judges" shall not include judges of courts established solely for the trial of violations of ordinances.

(g) "Special law" means a special or local law.

(h) Titles and subtitles shall not be used in construction.

(i) In interpreting the extent of vested governmental powers, the expression of one thing does not imply the exclusion of another. No such implication restricts any plenary or other vested power. The express inclusion of one or more mandatory or authorized means or actions does not exclude other means or actions not expressly prohibited.

The specification of a manner of fulfilling a state obligation shall not be construed as limiting any power to adopt alternatives in addition thereto, if otherwise within the powers vested or granted herein, unless the limitation is expressly provided herein.

ARTICLE XII

SCHEDULE

SECTION 26. Vested governmental powers; effective date.—The amendments to Section 3 of Article II, Section 1 of Article III,

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88 and Section 12 of Article X, relating to vested governmental
89 powers, shall apply retroactively.

90
91 BE IT FURTHER RESOLVED that the following statement be
92 placed on the ballot:

93 CONSTITUTIONAL AMENDMENTS

94 ARTICLE II, SECTION 3

95 ARTICLE III, SECTION 1

96 ARTICLE X, SECTION 12

97 ARTICLE XII, SECTION 26

98
99 VESTED GOVERNMENTAL POWERS.--Proposing a revision amending
100 sections of the State Constitution to delineate and distinguish
101 the vested powers of the branches of Florida's state government.
102 The revision reverses some judicial precedents that have imposed
103 limitations on governmental powers that have never been expressly
104 provided in the State Constitution. The revision provides that a
105 person belonging to one branch of state government cannot impose,
106 apply, or enforce a limitation on a power that is part of a
107 function of any of the other branches of government unless
108 imposing, applying or enforcing the limitation is expressly
109 provided in the State Constitution. The proposed revision further
110 provides that nothing in the State Constitution is to be
111 interpreted as limiting the power vested in the legislature
112 except as expressly limited in the State Constitution. The
113 proposed revision further provides that in interpreting the
114 extent of vested governmental powers, the expression of one thing
115 in the State Constitution does not imply the exclusion of another
116 and that such an implication cannot restrict any plenary or other

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117 vested governmental power; that the express inclusion in the
118 State Constitution of one or more mandatory or authorized means
119 or actions does not exclude other means or actions not expressly
120 prohibited; that specification of a manner of fulfilling a state
121 obligation shall not be construed as limiting any power to adopt
122 alternatives in addition thereto, if otherwise within the powers
123 vested or granted in the State Constitution, unless the
124 limitation is expressly provided therein. The revision provides
125 for retroactive applicability.
126
127

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB JU 06-04
SPONSOR(S): Judiciary Committee
TIED BILLS:

Land Trusts

IDEN./SIM. BILLS: SB 1956

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Judiciary Committee		Thomas 	Hogge 
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The essential purpose of a land trust is to provide a flexible method for the acquisition, financing, and disposition of real property. The land trust is a modified form of conventional trust agreement that is limited to an arrangement where the trustee holds title to the real property; however, all the active managerial and administrative powers are reserved to the beneficiaries.

The bill codifies existing practice and case law in the area of land trusts. It revises the current statute relating to land trusts by providing definitions of the terms "beneficial interest," "beneficiary," "land trust," "holders of the power of direction," and "trustee." It removes an obsolete provision referring to claims arising out of dower or curtesy. It creates provisions relating to land trust beneficiaries, successor trustees, and land trustees as creditors. Finally, it provides that the provisions of the bill are intended to clarify the existing law relating to land trusts and that the bill applies to all land trusts, whether the land trust was created before, on, or after the effective date of the bill.

The bill takes effect on October 1, 2006.

This bill does not appear to have a fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Land Trusts in General

The essential purpose of a land trust is to provide a flexible and practical method for the acquisition, financing, and disposition of real estate. Illinois appears to have been the first state to recognize the land trust, and for that reason, the land trust is often referred to as the "Illinois Land Trust."¹ The land trust is a modified form of a conventional trust agreement; however, it is limited to an arrangement where the trustee holds title to the real property but all the active managerial and administrative powers are reserved to the beneficiaries. In a land trust, the trustee receives the legal title to the real property, but the usual attributes of real estate fee ownership are retained by the beneficiary. The beneficiary retains only a personal property interest.

The land trust has been equated to the Massachusetts business trust from which the land trust undoubtedly evolved.² However, unlike a Massachusetts business trust, a land trust is generally viewed as a vehicle for holding title to real property rather than as an operating business entity. The land trust is created through the use of two instruments: 1) a deed in trust, where the real property is conveyed to the trustee, and 2) a trust agreement under which the trustee acts. Land trusts have been found to have several advantages:

- Interests in land trusts cannot be partitioned, and transferring beneficial interests is relatively easy.
- Interests of beneficiaries cannot be disclosed without a court order.
- Judgments against the beneficiaries do not affect legal title of the real property.
- The beneficial interest in the land trust is personal property. Since it is personal property, non-residents of Florida can avoid ancillary administration.
- The death of a beneficiary does not terminate the trust, and testamentary dispositions can be made in the trust agreement.

The trustee to a land trust is the party designated in the trust agreement to hold legal and equitable title to the land trust property. The beneficiary is the party designated in the trust agreement as having the power to direct the trustee with regard to the trust property, as well as, the control of the management, operation, rental and sale of the trust property and the right to the earnings and proceeds of the trust property. The power of direction is the right to control the trustee's disposition of title to the real property and the execution of trust documents.

¹ *Hart v. Seymour*, 147 Ill. 598 (Ill. 1893).

² *Schumann-Henk v. Folson*, 159 N.E. 250 (Ill. 1927).

Situations Where a Land Trust May Be Beneficial

A land trust may be useful in situations where multiple owners hold title to real property. In such cases, the potential exists for judgments, divorce, death, bankruptcy or incompetency of a single beneficiary to cloud the title to all or a part of the real property. The use of the land trust prevents the possibility of clouds on the title in these situations.

Where real estate projects are spread across multiple investors, the use of a land trust can reduce delays where signatures must be obtained from remote locations and can facilitate the many conveyances necessary in subdivisions and condominiums.

A key feature of the land trust is that interests of beneficiaries may not be disclosed without a court order. There are situations where purchasers of real estate may wish not to publicize their ownership of that real property. The land trust permits such individuals to keep their names from the public record.

Judgments against the beneficiaries do not affect the legal title to the real property held in a land trust. The title to the real property held in a land trust can be conveyed free and clear of any judgment liens against a beneficiary. Judgments can, however, be enforced against an individual's beneficial interest in a land trust.

The beneficial interest in the land trust is personal property. Non-residents of Florida, by placing title to their real estate in a land trust, may be able to avoid ancillary probate administration in the event of death.

Use of the land trust as a vehicle for holding title to real property permits the preservation of tax benefits under the Internal Revenue Code. All of the tax advantages of individual ownership may be retained when a land trust is properly used to hold title to real property. The deduction for expenses flows directly through the beneficial owners, assuming that all of the criteria to prevent the land trust from becoming an entity taxable as a corporation are met.

Land Trusts in Florida

In Florida, land trusts are presently a creature of statute rather than case law. In 1963, the Florida Legislature created s. 689.071, F.S., which statutorily recognized the Florida Land Trust. Section 689.071(1), F.S., provides that the land trustee receives legal and equitable title to the real property. The deed must be recorded and must give to the trustee full power and authority either to protect, conserve and to sell or to lease, or to encumber or otherwise to manage and dispose of the real property described in the deed. The trustee can only deal with the property within the power and authority granted in the recorded deed.

Section 689.071(2), F.S., states that any grantee, mortgagee, lessee, transferee, assignee, or person obtaining satisfactions or releases from a trustee holding title to real property in trust under a recorded trust deed that meets the requirements of 689.071, F.S., does not have to inquire into the identification or status of any named or unnamed beneficiary, their heirs or assigns or to the authority of the trustee to act within the powers granted in the recorded deed, nor is there any requirement to inquire into the provisions of an unrecorded trust document whether such document is referenced in the deed or not.

Section 689.071(3), F.S., provides that all persons dealing with the trustee under any recorded instrument that has been prepared in accordance with the section takes free and clear of the claims of all named or unnamed beneficiaries of the trust and of any unrecorded declarations or agreements collateral to the trust, whether they are referred to in the agreement or not. This subsection further

provides that anyone claiming under the beneficiaries, including claims arising out of any dower³ or curtesy⁴ interest of the spouse of a beneficiary, does not have a claim against the grantee if all of the provisions of this section have been met.⁵

Section 689.071(4), F.S., states that in all cases where the recorded instrument contains a provision declaring the interest of the beneficiary to be personal property only, that provision shall be controlling for all purposes where such determination becomes an issue under the laws or in the courts of Florida. This provision makes it possible for a beneficiary to convey his or her interest in the real property by assignment of beneficial interest rather than by the execution and recording of a deed.

Courts have held that the statutory land trust is not an ordinary inter vivos trust that is administered under Florida's trust administration laws in ch. 737, F.S.⁶ Florida courts have held that a grantee from a land trustee need not look beyond the trustee's deed in trust to determine his or her powers.⁷ Courts have held that s. 689.071, F.S., is a codification of land trust case law and is an adoption of the Illinois land trust.⁸

Statute of Uses

In the Middle Ages, the features of feudal tenure, primogeniture and forfeiture often resulted in transfers of land to others for the benefit of the grantor. The Statute of Uses, adopted at the time of Henry VIII, was created in order to have these transfers become complete transfers in fee. The result of the execution of a trust under the Statute of Uses was to vest the holder of the "use" with the actual legal estate. However, in spite of the enactment of the Statute of Uses, English courts found that it was inapplicable to active trusts and the concept of trusts remains part of present day law. The Statute of Uses continues as part of the common law of the United States. Florida's Statute of Uses is codified at s. 689.09, F.S.

Homestead Exemption

Article VII, s. 6 of the State Constitution authorizes a \$25,000 ad valorem property tax exemption for homestead property. In 1992, Florida voters approved the so-called "Save Our Homes" amendment to the State Constitution. This amendment limits the annual growth in the assessed value of homestead property to 3 percent over the prior year assessment or the percentage change in the U. S. Consumer Price Index, whichever is less. It also provides for a reassessment of homestead property at just value after any change of ownership.⁹

The beneficiary of a passive trust or active trust has equitable title to real property if he is entitled to the use and occupancy of the property under the terms of the trust, and thus is eligible for the homestead exemption.¹⁰ However, the homestead tax exemption may not be based upon residence of a beneficiary under a trust instrument which vests no present possessory right in such beneficiary.¹¹

³ "Dower" is a common law concept that entitles a widow to a life-estate in a third of any real property of her deceased husband for her support and the support of her children, if any. BLACK'S LAW DICTIONARY (8th ed. 1999).

⁴ "Curtesy" is a common law concept that entitles a widower to a life-estate in any real property of his deceased wife for his support, assuming that a child was born alive to the couple. BLACK'S LAW DICTIONARY (8th ed. 1999).

⁵ Section 732.111, F.S., created in 1974 by s. 1 of ch. 74-106, L.O.F., abolished dower and curtesy in Florida.

⁶ *Taylor v. Richmond's New Approach Association, Inc.*, 351 So.2d 1094 (Fla. 2d DCA 1977).

⁷ *Gramer v. Roman*, 174 So.2d 443 (Fla. 1965).

⁸ *Ferraro v. Parker*, 229 So.2d 621 (Fla. 2d DCA 1969).

⁹ Fla. Const. art. VII, s. 4(c)(3).

¹⁰ Fla Admin Code Rule 12D-7.011.

¹¹ Id.

Effect of Proposed Changes

The bill amends s. 689.071, F.S., to codify existing practice and case law in the area of land trusts as follows:

SHORT TITLE - renames the section the "Florida Land Trust Act."

DEFINITIONS - provides definitions of the terms "beneficial interest," "beneficiary," "land trust," "holders of the power of direction," and "trustee."

BENEFICIARY CLAIMS - removes a provision that refers to claims arising out of dower or curtesy.

LAND TRUST BENEFICIARIES - creates provisions relating to land trust beneficiaries to provide that:

- Beneficiaries are not liable, solely by reason of being a beneficiary, for a debt, obligation, or liability of the land trust.
- Beneficiaries acting under a land trust agreement are not liable to the trustee or to any other beneficiary for good-faith reliance on the provisions of the trust agreement.
- Chapter 679, F.S., relating to secured transactions under the Uniform Commercial Code applies to the perfection of any security interest in a beneficial interest in a land trust and that the perfection of a security interest in a beneficial interest in a land trust does not impair or diminish the authority of the trustee under the recorded instrument, and parties dealing with the trustee are not required to inquire into the terms of the unrecorded trust agreement.
- A beneficiary's duties and liabilities may be expanded or restricted in a trust agreement or a beneficiary agreement.
- Any subsequent document appearing of record in which a beneficiary transfers or encumbers the beneficial interest in the trust does not diminish or impair the authority of the trustee under the terms of the recorded instrument and that parties dealing with the trustee are not required to inquire into the terms of the unrecorded trust agreement.
- An unrecorded trust agreement underlying a recorded instrument may provide that one or more persons or entities have the power to direct the trustee to convey, execute a mortgage, distribute proceeds of sale or financing, and execute documents incidental to the land trust.
- The power of direction, unless provided otherwise in the land trust agreement, is conferred upon the holders of the power of direction for the use and benefit of all of the beneficiaries.
- In the absence of a provision in the land trust agreement to the contrary, the power of direction must be in accordance with the percentage of individual ownership.
- In exercising the power of direction, the holders of the power of direction are presumed to act in a fiduciary capacity for the benefit of all beneficiaries, unless it is otherwise provided in the land trust agreement.
- The beneficial interest is indefeasible¹² and the power of direction may not be exercised so as to alter, amend, revoke, terminate, defeat, or otherwise affect or change the enjoyment of any beneficial interest.

¹² "That which cannot be defeated, revoked, or made void." BLACK'S LAW DICTIONARY (8th ed. 1999).

- A trust relating to real estate does not fail, and any use relating to real estate may not be defeated, because beneficiaries are not specified by name in the recorded deed of conveyance to the trustee or because duties are not imposed upon the trustee.
- The power conferred by any recorded deed of conveyance on a trustee to sell, lease, encumber, or otherwise dispose of property is effective and a person dealing with the trustee is not required to inquire any further into the right of the trustee to act or as to the disposition of any proceeds.
- The principal residence of a beneficiary may be entitled to the homestead tax exemption even if the homestead is held by a trustee in a land trust.

SUCCESSOR TRUSTEE - creates provisions relating to a successor trustee to provide that:

- The provisions of s. 737.309, F.S., regarding the resignation of a trustee, do not apply to the appointment of a successor trustee of a land trust.
- If both the recorded instrument and the unrecorded land trust agreement are silent as to the appointment of a successor trustee, then one or more persons or entities having the power of direction of the land trust may appoint a successor or successors by filing a declaration of appointment of a successor trustee. Such a declaration must be signed, acknowledged, and must contain the legal description of the trust property; the name and address of the former trustee; the name and address of the successor trustee; and a statement that the successor trustee has been appointed by one or more persons or entities having the power of direction of the land trust, together with an acceptance of appointment by the successor trustee.
- If the recorded instrument is silent as to the appointment of a successor trustee but an unrecorded land trust agreement provides for the appointment of a successor trustee, then upon the appointment of a successor trustee pursuant to the terms of the unrecorded land trust agreement, the successor trustee shall file a declaration of appointment of a successor trustee.
- If the appointment of the successor trustee is due to the death or incapacity of the former trustee, the declaration need not be signed by the former trustee and a copy of the death certificate or a statement that the former trustee is incapacitated or unable to serve must be attached to or included in the declaration, as applicable.
- If the recorded instrument provides for the appointment of a successor trustee and a successor trustee is appointed in accordance with the recorded instrument, no additional declarations of appointment of a successor trustee are required under this section.
- Each successor land trustee appointed is fully vested with all the estate, properties, rights, powers, trusts, duties, and obligations of the predecessor land trustee, except that the successor land trustee is not under any duty to inquire into the acts or omissions of a predecessor trustee and is not liable for any act or failure to act of a predecessor trustee. A person dealing with the successor trustee pursuant to a declaration is not obligated to inquire into or ascertain the authority of the successor trustee to act within and exercise the powers granted under the recorded instruments or any unrecorded declarations or agreements.
- A land trust agreement may provide that the trustee, when directed to do so by the beneficiaries of the land trust or their legal representatives, may convey the trust property directly to another trustee on behalf of the beneficiaries or others named by the beneficiaries.

TRUSTEE AS CREDITOR - creates provisions relating to a land trustee as a creditor to provide that:

- If a debt is secured by a security interest in a beneficial interest in a land trust or by a mortgage on land trust property, the validity or enforceability of the debt, security interest, or mortgage and the rights, remedies, powers, and duties of the creditor with respect to the debt or the security are not affected by the fact that the creditor and the trustee are the same person or entity, and the creditor may extend credit, obtain such security interest or mortgage, and acquire and deal with the property comprising the security as though the creditor were not the trustee.
- A trustee of a land trust does not breach a fiduciary duty to the beneficiaries, and it may not be deemed evidence of a breach of any fiduciary duty owed by the trustee to the beneficiaries, for a trustee to be or become a secured or unsecured creditor of the land trust, the beneficiary of the land trust, or a third party whose debt to such creditor is guaranteed by a beneficiary of the land trust.

RETROACTIVITY – section 3 of the bill provides that it is intended to clarify the existing law relating to land trusts and that the bill applies to all land trusts, whether the land trust was created before, on, or after the effective date of the bill, which is October 1, 2006.

C. SECTION DIRECTORY:

Section 1: Amends s. 689.071, F.S., relating to land trusts.

Section 2: Amends s. 201.02, F.S., relating to tax on deeds to correct a cross-reference.

Section 3: Provides that the act is intended to clarify existing law and applies to all land trusts, whether created before, on, or after October 1, 2006.

Section 4: Provides that the bill becomes effective on October 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The bill does not appear to have any impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any significant economic impact on the private sector. It is intended to clarify and codify existing law relating to land trusts. In that vein, it may provide consistency and predictability to this area of law and benefit those who use and administer land trusts.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to require counties or cities to: spend funds or take action requiring the expenditure of funds; reduce the authority of counties or cities to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or cities.

2. Other:

Retroactivity

Unless the Legislature states otherwise, legislation is presumed to operate prospectively only, especially when retrospective operation would impair existing rights.¹³ Common law provides that the government, through rule or legislation, cannot adversely affect substantive rights once such rights have vested.¹⁴ Courts have used a weighing process to decide whether to sustain the retroactive application of a statute that has three considerations: the strength of the public interest served by the statute, the extent to which the right affected is abrogated, and the nature of the right affected.¹⁵ It does not appear that the provisions of this bill will affect any vested substantive rights since it is intended to clarify and codify existing law relating to land trusts and is remedial in nature.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

N/A

¹³ *State Farm Mut. Auto. Ins. Co. v. Laforet*, 658 So.2d 55 (Fla. 1995); *Alamo Rent-A-Car, Inc. v. Mancusi*, 632 So.2d 1352 (Fla. 1994).

¹⁴ *Bitterman v. Bitterman*, 714 So.2d 356 (Fla. 1998); *Dept. of Transportation v. Knowles*, 402 So. 2d 1155, 1157 (Fla. 1981); and *Village of El Portal v. City of Miami Shores*, 362 So. 2d 275, 277 (Fla. 1978), citing *McCord v. Smith*, 43 So. 2d 704, 708-709 (Fla. 1949).

¹⁵ *Supra Knowles* at 1158.

PCB JU 06-04

Land Trusts

2006

A bill to be entitled

An act relating to land trusts; amending s. 689.071, F.S.; creating the Florida Land Trust Act; providing definitions; deleting a requirement that a land trustee be qualified to act as a fiduciary; deleting obsolete references to "dower" and "curtesy"; providing certain rights, liabilities, and duties of land trust beneficiaries; providing that the principal residence of a beneficiary which is held in a land trust may be entitled to the homestead tax exemption; providing for the appointment of successor trustees; providing requirements for declarations of appointment; providing that a trustee of a land trust may also be a creditor of the trust or of a beneficiary of the trust; amending s. 201.02, F.S., relating to the tax on deeds and other instruments; conforming a cross-reference; providing for applicability of the act to all land trusts whenever created; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 689.071, Florida Statutes, is amended to read:

689.071 Florida Land Trust Act ~~trusts transferring interests in real estate; ownership vests in trustee.--~~

(1) SHORT TITLE.--This section may be cited as the "Florida Land Trust Act."

(2) DEFINITIONS.--As used in this section, the term:

(a) "Beneficial interest" means any interest, vested or

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contingent and regardless of how small or minimal such interest may be, in a land trust which is held by a beneficiary.

(b) "Beneficiary" means any person or entity having a beneficial interest in a land trust. A trustee may be a beneficiary of the land trust in which such trustee serves as trustee.

(c) "Land trust" is not the creation of an entity, but means any express agreement or arrangement whereof a use, confidence, or trust is declared of any land, or of any charge upon land, for the use or benefit of any beneficiary, under which the title to real property, both legal and equitable, is held by a trustee, subject only to the execution of the trust, which may be enforced by the beneficiaries.

(d) "Holders of the power of direction" means the persons or entities having the authority to direct the trustee to convey, execute a mortgage, distribute proceeds of sale or financing, and execute documents incidental to the execution of a land trust.

(e) "Trustee" means the person or entity designated in a trust instrument to hold legal and equitable title to the land trust property.

~~(3)-(1)~~ OWNERSHIP VESTS IN TRUSTEE.--Every conveyance, deed, mortgage, lease assignment, or other instrument heretofore or hereafter made, hereinafter referred to as "the recorded instrument," transferring any interest in real property in this state, including, but not limited to, a leasehold or mortgagee interest, to any person or to any, corporation, bank, trust company, or other entity duly formed under the laws of its state of qualification ~~qualified to act as a fiduciary in this state,~~ in which recorded instrument the person, corporation, bank, trust

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company, or other entity is designated "trustee," or "as trustee," without therein naming the beneficiaries of such trust, whether or not reference is made in the recorded instrument to any separate collateral unrecorded declarations or agreements, is effective to vest, and is hereby declared to have vested, in such trustee full rights of ownership over the real property or interest therein, with full power and authority as granted and provided in the recorded instrument to deal in and with the property or interest therein or any part thereof; provided, the recorded instrument confers on the trustee the power and authority ~~either~~ to protect, conserve and to sell, or to lease, or to encumber, or otherwise to manage and dispose of the real property described in the recorded instrument.

(4)-(2) NO DUTY TO INQUIRE.--Any grantee, mortgagee, lessee, transferee, assignee, or person obtaining satisfactions or releases or otherwise in any way dealing with the trustee with respect to the real property or any interest therein properties held in trust under the recorded instrument, as hereinabove provided ~~for~~, is not obligated to inquire into the identification or status of any named or unnamed beneficiaries, or their heirs or assigns to whom a trustee may be accountable under the terms of the recorded instrument, or under any unrecorded separate declarations or agreements collateral to the recorded instrument, whether or not such declarations or agreements are referred to therein; ~~or~~ to inquire into or ascertain the authority of such trustee to act within and exercise the powers granted under the recorded instrument; ~~or~~ to inquire into the adequacy or disposition of any consideration, if any is paid or delivered to such trustee in connection with any interest so acquired from

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such trustee; or to inquire into any of the provisions of any such unrecorded declarations or agreements.

(5)-(3) BENEFICIARY CLAIMS.--All persons dealing with the trustee under the recorded instrument as hereinabove provided take any interest transferred by the trustee thereunder, within the power and authority as granted and provided therein, free and clear of the claims of all the named or unnamed beneficiaries of such trust, and of any unrecorded declarations or agreements collateral thereto whether referred to in the recorded instrument or not, and of anyone claiming by, through, or under such beneficiaries. However, this section does not prevent including, and without limiting the foregoing to, any claim arising out of any dower or curtesy interest of the spouse of any beneficiary thereof; provided, nothing herein contained prevents a beneficiary of any such unrecorded collateral declarations or agreements from enforcing the terms thereof against the trustee.

(6)-(4) PERSONAL PROPERTY.--In all cases in which the recorded instrument, as hereinabove provided, contains a provision defining and declaring the interests of beneficiaries thereunder to be personal property only, such provision shall be controlling for all purposes when such determination becomes an issue under the laws or in the courts of this state.

(7)-(5) TRUSTEE LIABILITY.--In addition to any other limitation on personal liability existing pursuant to statute or otherwise, the provisions of s. 737.306 apply to the trustee of a land trust created pursuant to this section.

(8) LAND TRUST BENEFICIARIES.--

(a) Except as provided in this section, the beneficiaries of a land trust are not liable, solely by reason of being a

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117 beneficiary, under a judgment, decree, or order of court or in
118 any other manner for a debt, obligation, or liability of the land
119 trust.

120 (b) Any beneficiary acting under the trust agreement of a
121 land trust is not liable to the land trustee or to any other
122 beneficiary for the beneficiary's good-faith reliance on the
123 provisions of the trust agreement.

124 (c) Chapter 679 applies to the perfection of any security
125 interest in a beneficial interest in a land trust. The perfection
126 of a security interest in a beneficial interest in a land trust
127 does not impair or diminish the authority of the trustee under
128 the recorded instrument, and parties dealing with the trustee are
129 not required to inquire into the terms of the unrecorded trust
130 agreement.

131 (d) The beneficiary's duties and liabilities may be
132 expanded or restricted in a trust agreement or beneficiary
133 agreement.

134 (e) Any subsequent document appearing of record in which a
135 beneficiary of a trust transfers or encumbers the beneficial
136 interest in the trust does not diminish or impair the authority
137 of the trustee under the terms of the recorded instrument.
138 Parties dealing with the trustee are not required to inquire into
139 the terms of the unrecorded trust agreement.

140 (f) The unrecorded trust agreement underlying the recorded
141 instrument may provide that one or more persons or entities have
142 the power to direct the trustee to convey, execute a mortgage,
143 distribute proceeds of sale or financing, and execute documents
144 incidental to the land trust. The power of direction, unless
145 provided otherwise in the land trust agreement, is conferred upon

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the holders thereof for the use and benefit of all of the holders of the beneficial interest in the land trust. In the absence of a provision in the land trust agreement to the contrary, the power of direction shall be in accordance with the percentage of individual ownership. In exercising the power of direction, the holders of the power of direction are presumed to act in a fiduciary capacity for the benefit of all holders of the beneficial interest in the trust, unless otherwise provided in the land trust agreement. The beneficial interest is indefeasible and the power of direction may not be exercised so as to alter, amend, revoke, terminate, defeat, or otherwise affect or change the enjoyment of any beneficial interest.

(g) A trust relating to real estate does not fail, and any use relating to real estate may not be defeated, because beneficiaries are not specified by name in the recorded deed of conveyance to the trustee or because duties are not imposed upon the trustee. The power conferred by any recorded deed of conveyance on a trustee to sell, lease, encumber, or otherwise dispose of property therein described is effective and a person dealing with the trustee is not required to inquire any further into the right of the trustee to act and the disposition of any proceeds.

(h) The principal residence of a beneficiary may be entitled to the homestead tax exemption even if the homestead is held by a trustee in a land trust.

(9) SUCCESSOR TRUSTEE.--

(a) The provisions of s. 737.309 regarding the resignation of a trustee do not apply to the appointment of a successor trustee under this section.

175 (b) If both the recorded instrument and the unrecorded land
176 trust agreement are silent as to the appointment of a successor
177 trustee in the event of the death, incapacity, resignation, or
178 termination due to dissolution, of a land trustee, or if a land
179 trustee is unable to serve, then one or more persons or entities
180 having the power of direction of the land trust agreement may
181 appoint a successor or successors to the trust property by filing
182 a declaration of appointment of a successor trustee in the office
183 of the recorder in the county in which the trust property is
184 located. The declaration must be signed by a beneficiary or
185 beneficiaries of the trust and by the successor trustee, must be
186 acknowledged in the manner provided for acknowledgment of deeds,
187 and must contain:

- 188 1. The legal description of the trust property;
- 189 2. The name and address of the former trustee;
- 190 3. The name and address of the successor trustee; and
- 191 4. A statement that the successor trustee has been
192 appointed by one or more persons or entities having the power of
193 direction of the land trust, together with an acceptance of
194 appointment by the successor trustee.

195 (c) If the recorded instrument is silent as to the
196 appointment of a successor trustee but an unrecorded land trust
197 agreement provides for the appointment of a successor trustee in
198 the event of the death, incapacity, resignation, or termination
199 due to dissolution, then upon the appointment of a successor
200 trustee pursuant to the terms of the unrecorded land trust
201 agreement, the successor trustee shall file a declaration of
202 appointment of a successor trustee in the office of the recorder
203 in the county in which the trust property is located. The

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declaration must be signed by both the former trustee and the
successor trustee, must be acknowledged in the manner provided
for acknowledgment of deeds, and must contain:

1. The legal description of the trust property;
2. The name and address of the former trustee;
3. The name and address of the successor trustee;
4. A statement of resignation by the former trustee and a
statement of acceptance of appointment by the successor trustee;
and
5. A statement that the successor trustee was duly
appointed under the terms of the unrecorded land trust agreement.

If the appointment of the successor trustee is due to the death
or incapacity of the former trustee, the declaration need not be
signed by the former trustee and a copy of the death certificate
or a statement that the former trustee is incapacitated or unable
to serve must be attached to or included in the declaration, as
applicable.

(d) If the recorded instrument provides for the appointment
of a successor trustee and a successor trustee is appointed in
accordance with the recorded instrument, no additional
declarations of appointment of a successor trustee are required
under this section.

(e) Each successor land trustee appointed is fully vested
with all the estate, properties, rights, powers, trusts, duties,
and obligations of the predecessor land trustee, except that the
successor land trustee is not under any duty to inquire into the
acts or omissions of a predecessor trustee and is not liable for
any act or failure to act of a predecessor trustee. A person

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233 dealing with the successor trustee pursuant to a declaration
234 filed under this act is not obligated to inquire into or
235 ascertain the authority of the successor trustee to act within
236 and exercise the powers granted under the recorded instruments or
237 any unrecorded declarations or agreements.

238 (f) A land trust agreement may provide that the trustee,
239 when directed to do so by the beneficiaries of the land trust or
240 their legal representatives, may convey the trust property
241 directly to another trustee on behalf of the beneficiaries or
242 others named by the beneficiaries.

243 (10) TRUSTEE AS CREDITOR.--

244 (a) If a debt is secured by a security interest in a
245 beneficial interest in a land trust or by a mortgage on land
246 trust property, the validity or enforceability of the debt,
247 security interest, or mortgage and the rights, remedies, powers,
248 and duties of the creditor with respect to the debt or the
249 security are not affected by the fact that the creditor and the
250 trustee are the same person or entity, and the creditor may
251 extend credit, obtain such security interest or mortgage, and
252 acquire and deal with the property comprising the security as
253 though the creditor were not the trustee.

254 (b) A trustee of a land trust does not breach a fiduciary
255 duty to the beneficiaries, and it may not be deemed evidence of a
256 breach of any fiduciary duty owed by the trustee to the
257 beneficiaries, for a trustee to be or become a secured or
258 unsecured creditor of the land trust, the beneficiary of the land
259 trust, or a third party whose debt to such creditor is guaranteed
260 by a beneficiary of the land trust.

261 (11)-(6) REMEDIAL ACT.--This act is remedial in nature and

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shall be given a liberal interpretation to effectuate the intent and purposes hereinabove expressed.

~~(12)-(7)~~ EXCLUSION.--This act does not apply to any deed, mortgage, or other instrument to which s. 689.07 applies.

Section 2. Subsection (4) of section 201.02, Florida Statutes, is amended to read:

201.02 Tax on deeds and other instruments relating to real property or interests in real property.--

(4) The tax imposed by subsection (1) shall also be payable upon documents which convey or transfer, pursuant to s. 689.071, any beneficial interest in lands, tenements, or other real property, or any interest therein, even though such interest may be designated as personal property, notwithstanding the provisions of s. 689.071(6) ~~s. 689.071(4)~~. The tax shall be paid upon execution of any such document.

Section 3. This act is intended to clarify existing law and applies to all land trusts whether created before, on, or after October 1, 2006.

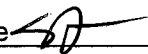

Section 4. This act shall take effect October 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 33 Homestead Property Assessments

SPONSOR(S): Domino and others

TIED BILLS: **IDEN./SIM. BILLS:** SJR 138, SJR 112

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Judiciary Committee</u>	<u></u>	Hogge 	Hogge 
2) <u>Local Government Council</u>	<u></u>	<u></u>	<u></u>
3) <u>Finance & Tax Committee</u>	<u></u>	<u></u>	<u></u>
4) <u>Justice Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

In 1992, Florida voters approved the so-called "Save Our Homes" amendment to the State Constitution. This amendment limits the annual growth in the assessed value of homestead property to 3 percent over the prior year assessment or the percentage change in the U. S. Consumer Price Index, whichever is less. It also provides for a reassessment of homestead property at just value after any change of ownership.

This House Joint Resolution proposes to amend Article VII, s. 4, of the State Constitution by providing that, at change of ownership, a newly acquired homestead property shall be assessed at less than just value rather than being reassessed at just value—if certain conditions are met:

- that the new homestead is purchased within one year of the sale of the previous homestead; and,
- the assessed value of the new homestead equals or exceeds the assessed value of the previous homestead.

The extent to which the initial assessment may depart from just value will be determined pursuant to general law. However, the proposal sets limits on the extent to which the initial assessment can depart from just value, by providing that the difference between the just value for the new homestead property and its assessed value in the first year may not exceed the difference between the just value of the previous homestead and its assessed value when sold.

According to the Special Impact Session of the Revenue Estimating Conference, the proposal is expected to have a negative fiscal impact on local governments in the aggregate, assuming no off-setting changes in millage rates, for each of the following fiscal years: FY 2008-09 (\$447.5m), FY 2009-10 (\$931.4m), FY 2010-11 (\$1,430.6m), FY 2011-12 (\$1,923.7m), and FY 2012-13 (\$2,417.6m). However, these reductions would come in the aftermath of double-digit increases in taxable values that have produced significant increases in ad valorem property tax revenues over the past several years. This fiscal impact assumes that the general law enacted pursuant to the amendment will provide for the maximum allowable departure from just value.

For homeowners, the negative fiscal impact could translate into maximum property tax savings of up to an amount corresponding to the estimated reduction in the growth of property tax revenues, again assuming no off-setting changes in millage rates.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill implicates the following House Principle:

Ensure lower taxes—

If approved by the voters and if market values continue to outpace the proposed assessment cap, then this proposal would reduce the amount of growth in total assessed property values and without off-setting millage changes, would result in property tax savings by homeowners. Many sparsely populated rural counties have no available millage capacity and would be among those local governments unable to increase their millage rates to compensate for resulting revenue losses.¹

B. EFFECT OF PROPOSED CHANGES:

Ad valorem property taxes are the single largest source of tax revenues for general purpose local governments in Florida. In FY 2002-03 (the last year for which published fiscal information is available), property taxes accounted for 31 percent of county governmental revenue (i.e., \$6.3 billion), and almost 20 percent of municipal government revenue (i.e., \$2.4 billion). Ad valorem property tax revenues also are the primary local revenue source for school districts. For that same fiscal year, school districts levied \$8.4 billion in property taxes.

Ad valorem property tax revenues result from multiplying the millage rate adopted by counties, municipalities, and school boards, by the taxable value of property within that jurisdiction. Each entity may levy up to 10 mills and, in most cases, the real property must be assessed at just value.² Article VII, s. 6 of the State Constitution authorizes a \$25,000 ad valorem property tax exemption for homestead property.

In 1992, Florida voters approved the so-called "Save Our Homes" amendment to the State Constitution. This amendment limits the annual growth in the assessed value of homestead property to 3 percent over the prior year assessment or the percentage change in the U. S. Consumer Price Index, whichever is less. It also provides for a reassessment of homestead property at just value after any change of ownership.³ The "Save Our Homes" constitutional amendment, originally proposed as a way to protect homeowners from being forced to sell their homes because of escalating property taxes caused by assessment increases, is now seen by some as keeping people from selling their homes and buying another home because of substantially higher property taxes resulting from the constitutionally required reassessment upon change in ownership.

Largely due to the recent surge in housing values⁴ and lack of corresponding millage rate reductions by local officials to offset double-digit increases in taxable values, ad valorem property tax revenues have increased substantially in recent years: 9.2 percent in 2002, 11.5 percent in 2003, and 10.4 percent in

¹ For 2004 (the latest published information available), 14 of the 67 county governments levied the full 10 mills, the constitutional maximum, and, therefore, have no available millage capacity. An additional 8 counties levied at least 9 mills. *Florida Property Valuation & Tax Data*, Department of Revenue, State of Florida (Dec. 2004).

² "Just value" is the estimated market value of the property. "Assessed value" is generally synonymous with "just value" unless a constitutional exception such as Save Our Homes applies to reduce the value of the property. "Taxable value" is the assessed value minus any applicable exemptions such as the \$25,000 homestead exemption.

³ Fla. Const. art. VII, s. 4(c)(3).

⁴ The boom in housing values does not translate into an identical increase in "just values" or "assessed values" since not all property is taxed at "just value." "Just values" have experienced double-digit increases since 2001: 10.6% in 2001; 11.3% in 2002; 12.4% in 2003; and 14.0% in 2004. For the period 1990-2000, the largest increase was 8.3%, with two years, 1992 and 1993, experiencing an increase of only 2.0%. Although not as large, the growth in "taxable values" resulted in a similar experience.

2004.⁵ These annual property tax increases are twice as high as the 5 percent average increase experienced between 1991 and 2000, but comparable to the 12.5 percent average annual increase from 1981 to 1990.⁶ Despite the growth in total taxable values, the statewide average actual millage rates have remained relatively unchanged, although on a generally downward trend.⁷ However, the differential between the actual millage rate and the so-called “roll back rate” (i.e., the millage rate necessary to generate the same amount of revenue as the prior year excluding new construction and boundary changes) is substantially more pronounced since 2000, than it was from 1990 to 1999. The taxable value of all real property has increased 53 percent over the past four years.

The amount of value removed from the tax rolls from the “Save Our Homes” provision is growing at a much faster rate than the amount of value removed by the homestead exemption. For example, in 2005, the amount of value excluded from the tax rolls as a result of the Save Our Homes provision grew by \$81 billion over the previous year compared to \$1.7 billion removed as a result of the homestead exemption.

Proposed Change

This House Joint Resolution proposes to amend Article VII, s. 4, of the State Constitution by providing that, at change of ownership, a newly acquired homestead property shall be assessed at less than just value rather than being reassessed at just value—if certain conditions are met:

- that the new homestead is purchased within one year of the sale of the previous homestead; and,
- the assessed value of the new homestead equals or exceeds the assessed value of the previous homestead.

The extent to which the initial assessment may depart from just value will be determined pursuant to general law. However, the proposal sets limits on the maximum extent to which the initial assessment can depart from just value, by providing that the difference between the just value for the new homestead property and its assessed value in the first year may not exceed the difference between the just value of the previous homestead and its assessed value when sold. Under the bill, the lowest possible assessment for the newly acquired homestead as provided in the following example would be:

Previous homestead—

Just value when sold	:	\$200,000
Assessed value when sold		\$100,000
Difference		\$100,000

New homestead—

Just value at purchase	:	\$250,000
Assessed value (originally)		\$125,000
Difference		\$125,000
Minimum new assessed value under proposal ⁸		\$150,000 (\$250,000-\$100,000)

⁵ “Taxes Levied and Millage Rates 1974-2004,” from *2006 Property Tax Roll Estimates* prepared by the Revenue Estimating Conference, November 8, 2005. The amount of ad valorem property tax levied for 2005 is not yet available, but the value of property subject to the tax increased by approximately 20%.

⁶ Id.

⁷ Actual average millage rates for all jurisdictions for 2004—20.18; for 2003—20.60; for 2002—20.57. Excluding public school levies for 2004—11.96; for 2003—12.06; for 2002—11.93.

⁸ Note that the initial assessed value for purposes of this example could wind up being anywhere between a low of \$150,000 and just under \$250,000, depending on the terms of general law. The proposal provides that the assessed value of the newly established

C. SECTION DIRECTORY:

Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Ad valorem taxes are the primary revenue source for school districts. Because this bill generally would limit the extent of reassessment of homestead properties upon change of ownership and keep more homesteads from ever being reassessed at just value, it would also limit the growth in the amount of revenue generated from property taxes for school purposes, absent an adjustment in the millage rates. As such, the state could be put in the position of having to supply an increasing amount of support for the school system if the necessary funds could not be generated at the local level.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This proposal is expected to have a negative fiscal impact on local governments, necessitating reductions in expenditures and/or an increase in millage rates (in those jurisdictions where that capacity exists) to maintain current levels of property tax revenues. According to the Special Impact Session of the Revenue Estimating Conference, the proposal is expected to have the following negative fiscal impact on local governments for the following fiscal years, assuming no off-setting changes in millage rates: FY 2008-09 (\$447.5m), FY 2009-10 (\$931.4m), FY 2010-11 (\$1,430.6m), FY 2011-12 (\$1,923.7m), and FY 2012-13 (\$2,417.6m). This fiscal impact assumes that the general law enacted pursuant to the amendment will provide for the maximum allowable departure from just value.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

For homeowners, the potential negative fiscal impact experienced by local governments would translate into maximum property tax savings for homeowners of up to an amount corresponding to the estimated reduction in the growth of property tax revenues, assuming no off-setting changes in millage rates. For the following fiscal years, these amounts are estimated to be: FY 2008-09 (\$447.5m), FY 2009-10 (\$931.4m), FY 2010-11 (\$1,430.6m), FY 2011-12 (\$1,923.7m), and FY 2012-13 (\$2,417.6m). These amounts assume that the general law enacted pursuant to the amendment will provide for the maximum allowable departure from just value.

D. FISCAL COMMENTS:

None.

homestead shall initially be set at less than just value, *as provided by general law*. Presumably, general law would specify how much less than just value the assessment would be. Therefore, the actual impact of the bill will be determined by general law.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision does not apply to House Joint Resolutions.

2. Other:

Article XI, Section 1 of the State Constitution provides the Legislature with the authority to propose amendments to the State Constitution by joint resolution approved by three-fifths of the membership of each house. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State's office or may be placed at a special election held for that purpose.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Not applicable.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

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House Joint Resolution

A joint resolution proposing an amendment to Section 4 of Article VII of the State Constitution to provide an additional circumstance for assessing homestead property at less than just value.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 4 of Article VII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 4. Taxation; assessments.--By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land, land producing high water recharge to Florida's aquifers, or land used exclusively for noncommercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

(b) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.

(c) All persons entitled to a homestead exemption under Section 6 of this Article shall have their homestead assessed at

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just value as of January 1 of the year following the effective date of this amendment. This assessment shall change only as provided herein.

(1) Assessments subject to this provision shall be changed annually on January 1st of each year; but those changes in assessments shall not exceed the lower of the following:

a. Three percent (3%) of the assessment for the prior year.

b. The percent change in the Consumer Price Index for all urban consumers, U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics.

(2) No assessment shall exceed just value.

(3) After any change of ownership, as provided by general law, homestead property shall be assessed at just value as of January 1 of the following year, unless the provisions of paragraph (8) apply. Thereafter, the homestead shall be assessed as provided herein.

(4) New homestead property shall be assessed at just value as of January 1st of the year following the establishment of the homestead, unless the provisions of paragraph (8) apply. That assessment shall only change as provided herein.

(5) Changes, additions, reductions, or improvements to homestead property shall be assessed as provided for by general law; provided, however, after the adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided herein.

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(6) In the event of a termination of homestead status, the property shall be assessed as provided by general law.

(7) The provisions of this amendment are severable. If any of the provisions of this amendment shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any remaining provisions of this amendment.

(8) When a person sells his or her homestead property within this state and within one year purchases another property and establishes such property as homestead property, the newly established homestead property shall be initially assessed at less than just value, as provided by general law. The difference between the new homestead property's just value and its assessed value in the first year the homestead is established may not exceed the difference between the previous homestead's just value and its assessed value in the year of sale. In addition, to be assessed as provided in this paragraph, the assessed value of the new homestead must equal or exceed the assessed value of the previous homestead. Thereafter, the homestead shall be assessed as provided herein.

(d) The legislature may, by general law, for assessment purposes and subject to the provisions of this subsection, allow counties and municipalities to authorize by ordinance that historic property may be assessed solely on the basis of character or use. Such character or use assessment shall apply only to the jurisdiction adopting the ordinance. The requirements for eligible properties must be specified by general law.

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(e) A county may, in the manner prescribed by general law, provide for a reduction in the assessed value of homestead property to the extent of any increase in the assessed value of that property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive grandparents or parents of the owner of the property or of the owner's spouse if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. Such a reduction may not exceed the lesser of the following:

(1) The increase in assessed value resulting from construction or reconstruction of the property.

(2) Twenty percent of the total assessed value of the property as improved.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE VII, SECTION 4

HOMESTEAD PROPERTY ASSESSMENTS.--Proposing an amendment to the State Constitution to provide for assessing at less than just value property purchased within one year after a sale of homestead property and established as new homestead property, limited by the difference between the new homestead property's just value and its assessed value in the first year the homestead is established not exceeding the difference between the previous homestead's just value and its assessed value in the year of sale and the new homestead property's assessed value

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112 | equaling or exceeding the old homestead property's assessed
113 | value.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS



BILL #: HJR 39

Limitations on Assessments of Residential and Commercial Property

SPONSOR(S): Farkas

TIED BILLS:

IDEN./SIM. BILLS: SJR 22

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Judiciary Committee		Hogge 	Hogge 
2) Local Government Council			
3) Finance & Tax Committee			
4) Justice Council			
5)			

SUMMARY ANALYSIS

This House Joint Resolution proposes to amend Article VII, section 4 of the State Constitution by extending the so-called "Save Our Homes" limitation on annual increases in the assessed value of homestead property to "all residential or commercial property." As a result, the annual assessed value of residential or commercial property, not just homestead property, could not be increased more than 3 percent over the prior year assessment or the percentage change in the U. S. Consumer Price Index, whichever is less.

If approved by the voters and if market values continue to outpace the proposed assessment cap, the extension of the "Save Our Homes" limitation to all residential and commercial property would reduce the growth in total assessed property values and, as a result, reduce the amount of ad valorem property taxes billed to property owners, unless a local government were to adopt a corresponding increase in the millage rate to offset the likely reductions in the growth in total assessed values. However, if a local government is unable to offset the reductions in growth by increasing the millage rate because of a lack of millage capacity, property owners would experience reduced property taxes. Many small rural counties have no available millage capacity and would be among those local governments unable to increase their millage rates to compensate for losses resulting from an extension of the cap on assessed values to property other than homesteads. For others that do have available millage capacity, that capacity is likely to be quickly outstripped by the reduction in the growth of total taxable values.

However, in proposing this change, the joint resolution is drafted in a manner that may actually have the effect, apparently unintended, of increasing the assessed value of homestead property currently benefiting from the assessment cap by requiring a rebalancing of the assessed values of all residential and commercial property as of January 1 of the year following the effective date of this proposed constitutional amendment. Without a corresponding millage rate reduction, this rebalancing would have the effect of increasing the amount of ad valorem property taxes paid by those property owners whose homesteads are reassessed.

This proposal is expected to have a significant adverse fiscal impact on local governments.

See Section II.B.1. of this analysis for details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill implicates the following House Principle:

Ensure lower taxes—

If approved by the voters and if market values continue to outpace the proposed assessment cap, the extension of the "Save Our Homes" limitation from homestead¹ to all residential and commercial property would reduce the growth in total assessed property values and, as a result, reduce the amount of ad valorem property taxes billed to property owners, unless a local government adopted a corresponding increase in the millage rate to offset the likely reductions in the growth in total assessed values. However, if a local government is unable to offset these reductions by increasing the millage rate because of a lack of millage capacity, property owners would experience reduced property taxes. Many small rural counties have no available millage capacity and would be among those local governments unable to increase their millage rates to compensate for losses resulting from an extension of the cap on assessed values to property other than homesteads. For others that do have available millage capacity, that capacity is likely to be quickly outstripped by the reduction in the growth of total assessed values.

However, though apparently not intended by the sponsor, this proposal could result in increased taxes. By amending Art. VII, section 4(c) of the State Constitution to require commercial property to also be assessed at just value as of January 1 of the year following the "effective date of this amendment," this proposal could have the effect of subjecting all homestead property currently assessed below market value to be reassessed at current market values (in effect losing the benefit of their accrued constitutionally provided assessment cap). Absent a corresponding millage rate reduction, this would have the effect of increasing the amount of ad valorem property taxes paid by certain property owners.

B. EFFECT OF PROPOSED CHANGES:

Background

Ad valorem property taxes are the single largest source of tax revenues for general purpose local governments in Florida. In FY 2002-03, the last year for which fiscal information is available, property taxes accounted for 31 percent of county governmental revenue (\$6.3 billion), and almost 20 percent of municipal government revenue (\$2.4 billion). Ad valorem property tax revenues also are the primary local revenue source for school districts. For that same fiscal year, school districts levied \$8.4 billion in property taxes.

Ad valorem property tax revenues result from multiplying the millage rate adopted by counties, municipalities, and school boards by the taxable value of property within that jurisdiction. Each entity may levy up to 10 mills and, in most cases, the real property must be assessed at just value.² Article VII, s. 6 of the State Constitution authorizes a \$25,000 ad valorem property tax exemption for homestead property.

¹ That is, real property owned by a taxpayer and used as the owner's permanent residence or the permanent residence of another who is legally or naturally dependent upon the owner.

² "Just value" is the estimated market value of the property. "Assessed value" is generally synonymous with "just value" unless a constitutional exception such as Save Our Homes applies to reduce the value of the property. "Taxable value" is the assessed value minus any applicable exemptions such as the \$25,000 homestead exemption.

In 1992, Florida voters approved the so-called "Save Our Homes" amendment to the State Constitution. This amendment limits the annual growth in the assessed value of homestead property to 3 percent over the prior year assessment or the percentage change in the U. S. Consumer Price Index, whichever is less. It does not limit assessment increases for other types of property such as non-homestead residential, commercial, or industrial property. This has produced valuation differentials for tax purposes among properties having similar market values. The "Save Our Homes" exception is one of several exceptions to the just value requirement found in Article VII, s. 4 of the State Constitution.³

Largely due to the recent surge in housing values⁴ and lack of corresponding millage rate reductions by local officials to offset double-digit increases in taxable values, ad valorem property tax revenues have increased substantially in recent years: 9.2 percent in 2002, 11.5 percent in 2003, and 10.4 percent in 2004.⁵ These annual property tax increases are twice as high as the 5 percent average increase experienced between 1991 and 2000, but comparable to the 12.5 percent average annual increase from 1981 to 1990.⁶ Despite the growth in total taxable values, the statewide average actual millage rates have remained relatively unchanged, although on a generally downward trend.⁷ However, the differential between the actual millage rate and the so-called "roll back rate" (i.e., millage rate necessary to generate the same amount of revenue as the prior year excluding new construction and boundary changes) is substantially more pronounced since 2000, then it was from 1990 to 1999.

The taxable value of all real property has increased 53 percent over the past four years.

The amount of value removed from the tax rolls from the "Save Our Homes" provision is growing at a much faster rate than the amount of value removed by the homestead exemption. For example, in 2005, the amount of value excluded from the tax rolls as a result of the Save Our Homes provision grew by \$81 billion over the previous year compared to \$1.7 billion removed as a result of the homestead exemption.

Proposed Change

This House Joint Resolution would propose to amend Article VII, s. 4 of the State Constitution by extending the limitation on annual increases in the assessment of all homestead property to all residential or commercial property. As a result, changes in the assessed value of residential or commercial property, and not just homestead property, could not exceed 3 percent of the assessment for the prior year or the percentage change in the U. S. Consumer Price Index, whichever is less.

C. SECTION DIRECTORY:

Not applicable.

³ These include exceptions for agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for non-commercial recreational purposes, all of which may be assessed solely on the basis of their character or use. Tangible personal property that is held as inventory may also be assessed at a specified percentage of its value or totally exempted. Additionally, counties and cities may be authorized to assess historical property based solely on the basis of its character or use, without regard to just value. The Legislature also has provided for differential treatment of specific property, to include pollution control devices and building renovations for the physically handicapped.

⁴ The boom in housing values does not translate into an identical increase in "just values" or "assessed values" since not all property is taxed at "just value." "Just values" have experienced double-digit increases since 2001: 10.6% in 2001; 11.3% in 2002; 12.4% in 2003; and 14.0% in 2004. For the period 1990-2000, the largest increase was 8.3%, with two years, 1992 and 1993, experiencing an increase of only 2.0%. Although not as large, the growth in "taxable values" resulted in a similar experience.

⁵ "Taxes Levied and Millage Rates 1974-2004," from 2006 Property Tax Roll Estimates prepared by the Revenue Estimating Conference, November 8, 2005. The amount of ad valorem property tax levied for 2005 is not yet available, but the value of property subject to the tax increased by approximately 20%.

⁶ Id.

⁷ Actual average millage rates for all jurisdictions for 2004—20.18; for 2003—20.60; for 2002—20.57. Excluding public school levies for 2004—11.96; for 2003—12.06; for 2002—11.93.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Ad valorem taxes are the primary revenue source for school districts. Because this bill applies the limits on assessed value to additional properties, it would also limit the amount of revenue generated from property taxes for school purposes, absent an adjustment in the millage rates. As such, the state might have to supply an increasing amount of support for the school system if the necessary funds could not be generated at the local level.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This proposal is expected to have a significant adverse fiscal impact on local governments, necessitating reductions in expenditures and/or an increase in millage rates (in those jurisdictions where that capacity exists) to maintain current property tax revenues. Although requested by staff, the Special Impact Session of the Revenue Estimating Conference has not yet rendered an official estimate of the fiscal impact. Unofficially, however, very preliminary staff estimates suggest a statewide reduction in property tax revenues of \$1.14 billion in 2006, followed by a \$2.33 billion and \$3.58 billion reduction in 2007 and 2008, respectively. For purposes of perspective, total property taxes levied statewide in 2004 were \$22.4 billion. These revenue reductions result from a projected reduction in the tax base of \$56.76 billion in 2006, growing to \$392.34 billion in 2011.

2. Expenditures:

This proposal would have no direct effect on expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If approved by the voters and if market values continue to outpace the proposed assessment cap, the extension of the "Save Our Homes" limitation from homestead to all residential and commercial property would reduce the growth in total assessed property values and, as a result, reduce the amount of ad valorem property taxes billed to property owners, unless a local government adopted a corresponding increase in the millage rate to offset the likely reductions in the growth in total assessed values. However, if a local government is unable to offset these reductions by increasing the millage rate because of a lack of millage capacity, property owners would experience reduced property taxes. Many small rural counties have no available millage capacity and would be among those local governments unable to increase their millage rates to compensate for losses resulting from an extension of the cap on assessed values to property other than homesteads. For others that do have available millage capacity, that capacity is likely to be quickly outstripped by the reduction in the growth of total assessed values.

However, though apparently not intended by the sponsor, this proposal could result in increased taxes. By amending Art. VII, section 4(c) of the State Constitution to require commercial property to also be assessed at just value as of January 1 of the year following the "effective date of this amendment," this proposal could have the effect of subjecting all homestead property currently assessed below market value to be reassessed at current market values (in effect losing the benefit of their accrued constitutionally provided assessment cap). Absent a corresponding millage rate reduction, this would have the effect of increasing the amount of ad valorem taxes paid by certain property owners.

Since this proposal would bring commercial property under the limitation on assessed values, commercial property would for the first time enjoy the benefit of the assessment limitation.

D. FISCAL COMMENTS:

The fiscal impact statements do not take into account the apparently unintended rebalancing that could occur based on the way in which the proposal is drafted. See discussion at Section III.C. of this analysis.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision does not apply to House Joint Resolutions.

2. Other:

Article XI, Section 1 of the State Constitution provides the Legislature with the authority to propose amendments to the State Constitution by joint resolution approved by three-fifths of the membership of each house. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State's office or may be placed at a special election held for that purpose.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Critics of the existing constitutional provision—the so-called “Save Our Homes” amendment—point to the disparities it can produce in assessed values between properties of equivalent market values. For example, for two homes with a market value of \$250,000, the assessed value of one may be \$100,000, and for another, \$175,000. This can result in one homeowner paying substantially more in property taxes as a percentage of their respective market values. Without a similar cap on other non-homestead properties, it can also result in other property owners having to pay disproportionately more in taxes due to taxable values closer to true market values.

This proposal could have consequences apparently not intended by the sponsor; that is, by amending Art. VII, section 4(c) of the State Constitution to require commercial property to also be assessed at just value as of January 1 of the year following the “effective date of this amendment,” this proposal could have the effect of subjecting all homestead property currently assessed below market value to be reassessed at current market values (in effect losing the benefit of their accrued “Save Our Homes” cap). Absent a corresponding millage rate reduction, this would have the effect of increasing the amount of ad valorem taxes paid by certain property owners.

In what appears to be a strictly technical drafting issue, the proposal uses the disjunctive “or” in referring to the type of property, i.e., residential “or” commercial, subject to the general just value assessment requirement. Given the context, the conjunctive “and” seems more appropriate since the provision is referencing the universe of property affected by the requirement.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

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2006

House Joint Resolution

A joint resolution proposing an amendment to Section 4 of Article VII of the State Constitution relating to limitations on assessments of residential and commercial property.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 4 of Article VII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 4. Taxation; assessments.--By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land, land producing high water recharge to Florida's aquifers, or land used exclusively for noncommercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

(b) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.

(c) All residential or commercial property persons ~~entitled to a homestead exemption under Section 6 of this~~

HJR 39

2006

29 ~~Article~~ shall be ~~have their homestead~~ assessed at just value as
30 of January 1 of the year following the effective date of this
31 amendment. This assessment shall change only as provided herein.

32 (1) Assessments subject to this provision shall be changed
33 annually on January 1st of each year; but those changes in
34 assessments shall not exceed the lower of the following:

35 a. Three percent (3%) of the assessment for the prior
36 year.

37 b. The percent change in the Consumer Price Index for all
38 urban consumers, U.S. City Average, all items 1967=100, or
39 successor reports for the preceding calendar year as initially
40 reported by the United States Department of Labor, Bureau of
41 Labor Statistics.

42 (2) No assessment shall exceed just value.

43 (3) After any change of ownership, as provided by general
44 law, residential or commercial homestead property shall be
45 assessed at just value as of January 1 of the following year.
46 Thereafter, the property homestead shall be assessed as provided
47 herein.

48 (4) New residential or commercial homestead property shall
49 be assessed at just value as of January 1st of the year
50 following the completion of construction establishment of the
51 property homestead. That assessment shall only change as
52 provided herein.

53 (5) Changes, additions, reductions, or improvements to
54 residential or commercial homestead property shall be assessed
55 as provided for by general law; provided, however, after the

56 adjustment for any change, addition, reduction, or improvement,
57 the property shall be assessed as provided herein.

58 ~~(6) In the event of a termination of homestead status, the~~
59 ~~property shall be assessed as provided by general law.~~

60 (6)~~(7)~~ The provisions of this amendment are severable. If
61 any of the provisions of this amendment shall be held
62 unconstitutional by any court of competent jurisdiction, the
63 decision of such court shall not affect or impair any remaining
64 provisions of this amendment.

65 (d) The legislature may, by general law, for assessment
66 purposes and subject to the provisions of this subsection, allow
67 counties and municipalities to authorize by ordinance that
68 historic property may be assessed solely on the basis of
69 character or use. Such character or use assessment shall apply
70 only to the jurisdiction adopting the ordinance. The
71 requirements for eligible properties must be specified by
72 general law.

73 (e) A county may, in the manner prescribed by general law,
74 provide for a reduction in the assessed value of homestead
75 property to the extent of any increase in the assessed value of
76 that property which results from the construction or
77 reconstruction of the property for the purpose of providing
78 living quarters for one or more natural or adoptive grandparents
79 or parents of the owner of the property or of the owner's spouse
80 if at least one of the grandparents or parents for whom the
81 living quarters are provided is 62 years of age or older. Such a
82 reduction may not exceed the lesser of the following:

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(1) The increase in assessed value resulting from construction or reconstruction of the property.

(2) Twenty percent of the total assessed value of the property as improved.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:



CONSTITUTIONAL AMENDMENT

ARTICLE VII, SECTION 4

LIMITATIONS ON ASSESSMENTS OF RESIDENTIAL AND COMMERCIAL PROPERTY.--Proposing an amendment to the State Constitution to apply to all residential and commercial property the limitations on assessments of property at just value currently applicable only to homestead property.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 129 Lawful Ownership, Possession, and Use of Firearms and Other Weapons
SPONSOR(S): Baxley and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 206

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Judiciary Committee		Thomas 	Hogge 
2) Agriculture Committee			
3) Justice Council			
4)			
5)			

SUMMARY ANALYSIS

The bill addresses provisions relating to the storage and transport of firearms in a motor vehicle on property set aside for the parking of a motor vehicle.

The bill provides that a person or entity may not establish, maintain, or enforce a policy or rule that has the effect of prohibiting the otherwise lawful possession of a firearm that is locked in or locked to a motor vehicle that is on any premises set aside for the parking of motor vehicles.

The bill creates a criminal penalty of a third degree felony for violation of the prohibition created by the bill.

The bill provides immunity from civil liability to any person or entity for damages in certain occurrences resulting from the use of a firearm that was lawfully transported and stored in a locked motor vehicle on the person's or entity's property that was set aside for the parking of motor vehicles.

The bill takes effect upon becoming a law.

This bill does not appear to have a fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard Individual Liberty: the bill limits the ability of persons and businesses to maintain certain policies related to their premises, but permits lawful possession of a firearm that is locked in or locked to a motor vehicle that is on any premises set aside for the parking of motor vehicles.

Promote Personal Responsibility: the bill provides immunity from civil liability to any person or entity for damages in certain occurrences resulting from the use of a firearm that was lawfully transported and stored in a locked motor vehicle on the person's or entity's property that was set aside for the parking of motor vehicles.

Maintain Public Security: the bill affects policies regarding the possession of firearms in vehicles in certain locations.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

A firearm is defined as "any weapon (including a starter gun) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device; or any machine gun. The term "firearm" does not include an antique firearm unless the antique firearm is used in the commission of a crime."¹

Section 790.053, F.S., provides that it is unlawful to openly carry any firearm or electric weapon, except a person may openly carry a self-defense chemical spray or a nonlethal stun gun or other nonlethal electric weapon that does not fire a or projectile and is designed solely for defensive purposes. A violation of this provision is a misdemeanor of the second degree.

Section 790.06, F.S., provides that the Department of Agriculture and Consumer Services may issue licenses to persons qualified to carry concealed weapons or firearms. A concealed weapon or firearm is defined as "a handgun, electronic weapon or device, tear gas gun, knife, or billie, but the term does not include a machine gun as defined in s. 790.001(9)."

Section 790.25, F.S., provides for the lawful and unlawful ownership, possession, and use of firearms and other weapons. It specifically prohibits the carrying of a concealed firearm or weapon without a permit. This section provides that the provisions of s. 790.053, F.S., and s. 790.06, F.S., discussed above, do not apply to:

- Members of the military, law enforcement, or persons carrying out or training for emergency management duties;
- Guards or messengers of common carriers;
- Members of any organization duly authorized to purchase or receive weapons;
- A person engaged in fishing, camping, or lawful hunting or going to or returning from a fishing, camping, or lawful hunting expedition;
- A person engaged in the business of manufacturing, repairing, or dealing in firearms;
- A person firing weapons for testing or target practice;
- A person traveling by private conveyance when the weapon is securely encased or in a public conveyance when the weapon is securely encased and not in the person's manual possession;

¹ Section 790.001(6), F.S.

- A person while carrying a pistol unloaded and in a secure wrapper, concealed or otherwise, from the place of purchase to his or her home or place of business or to a place of repair or back to his or her home or place of business;
- A person possessing arms at his or her home or place of business; or
- Investigators employed by the several public defenders of the state or the capital collateral representative.

Subsection (5) of s. 790.06, F.S., specifically provides that it is lawful "for a person 18 years of age or older to possess a concealed firearm or other weapon for self-defense or other lawful purpose within the interior of a private conveyance, without a license, if the firearm or other weapon is securely encased or is otherwise not readily accessible for immediate use."

Schools

In addition to the statutes discussed above regarding the possession of firearms, each district school board in Florida is required to have a zero-tolerance policy regarding the possession of firearms by students on school grounds.² A violation of the policy must result in a least a one-year expulsion from school and referral to the criminal justice or juvenile justice system. Trespassers that carry a weapon or firearm on school property, public or private, commit a felony of the third degree.³

Congress enacted the Gun Free School Zones Act in 1990.⁴ It was subsequently overturned by the United States Supreme Court as a violation of Congress's powers under the commerce clause to regulate inter-state commerce.⁵ The Act was passed again in 1996 with changes to address the concerns of the Supreme Court that made it only applicable to guns that crossed state lines in commerce.⁶ In general, the Act makes it unlawful for any person to possess a firearm in a school zone. The term "school zone" means "in, or on the grounds of, a public, parochial or private school or within a distance of 1,000 feet from the grounds of a public, parochial or private school." The term "school" means "a school which provides elementary or secondary education, as determined under State law." Whoever violates the Act may be fined up to \$5,000, imprisoned up to five years, or both. Exceptions to this Act include:

- if the person is licensed to do so;
- if the firearm is not loaded and in a locked container, or a locked firearms rack which is in a motor vehicle;
- by an individual for use in a program approved by a school in the school zone;
- by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;
- by a law enforcement officer acting in his or her official capacity; or
- the firearm is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

Other States

Oklahoma and Alaska have passed laws prohibiting persons and businesses from banning the otherwise lawful possession of a firearm in a locked vehicle in a parking lot.⁷ The Oklahoma statute

² Section 1006.13(2), F.S.

³ Section 810.095, F.S.

⁴ P.L. 101-647, Sec. 1702(b)(1), 18 USC ss. 921 and 922.

⁵ U.S. v. Lopez, 514 US 549 (1995).

⁶ P.L. 104-208.

⁷ Alaska Stat. Art. 10A, Sec. 18.65.800; Okla. Stat. tit. 21, Pt. IV, Ch. 53, Sec. 1289.7a.

has not taken effect pending the outcome of federal litigation seeking to overturn the law.⁸ Georgia and Indiana have similar legislation pending.⁹

Occupational Violence

An average of 1.7 million people were victims of violent crime while working or on duty in the United States each year from 1993 through 1999, including an average of 1.3 million simple assaults, 325,000 aggravated assaults, 36,500 rapes and sexual assaults, 70,000 robberies, and 900 homicides.¹⁰ In 2001, there were 639 workplace homicides in the U.S., the lowest number since the Census of Fatal Occupational Injuries began in 1992 (just over 80% of these were from shootings). Of the occupations examined, police officers, corrections officers, and taxi drivers were victimized at the highest rates. Businesses can be and have been held liable for crimes occurring on their property where they were found to be negligent in providing security.

Effect of Proposed Changes:

The bill provides that a person or entity may not establish, maintain, or enforce a policy or rule that has the effect of prohibiting the otherwise lawful possession of a firearm that is locked in or locked to a motor vehicle that is on any premises set aside for the parking of motor vehicles. The bill creates a criminal penalty of a third degree felony for violation of the prohibition created by the bill. A third degree felony is punishable, pursuant to s. 775.082 and s. 775.083, F.S., by a term of imprisonment not exceeding 5 years and a fine not to exceed \$5,000.

The bill provides to any person or entity immunity from civil liability for damages in certain occurrences resulting from the use of a firearm that was lawfully transported and stored in a locked motor vehicle on the person's or entity's property that was set aside for the parking of motor vehicles. This immunity does not apply if the person or entity commits a criminal act involving the use of such firearm.

The bill provides that a person who is injured due to a policy prohibited by the bill may sue the person or entity with such policy, and if he or she prevails, the court shall award actual damages, court costs, and attorney fees and enjoin any further violations. If an employee who is lawfully transporting or storing a firearm in a locked motor vehicle on property set aside for parking is discharged for violating a policy prohibited under this bill, the employee is entitled to reinstatement to the same or equivalent position, including any fringe benefits and seniority rights, compensation for any lost wages, benefits, or other lost remuneration caused by the termination, and payment of attorney's fees and costs.

The bill defines "motor vehicle" as any automobile, truck, minivan, sports utility vehicle, motorcycle, motor scooter, or any other vehicle required to be registered under Florida law. The bill states that the intent of the new law is "to reinforce and protect the right of each law-abiding citizen to enter and exit any parking lot, parking facility, or space used for the parking of motor vehicles while such person is lawfully transporting and storing a firearm or firearms in the motor vehicle and the firearm or firearms are locked in or locked to the motor vehicle, to avail himself or herself of temporary or long-term parking or storage of a motor vehicle, and to prohibit any infringement of the right to lawful possession of firearms when such firearms are being transported and stored in a vehicle for a lawful purpose."

⁸ The Williams Co. and ConocoPhillips Co. have sued the State of Oklahoma in U.S. District Court, Northern District of Oklahoma, No. 04-CV-820 H(J). The federal court enjoined the enforcement of the statute pending the litigation. It certified to the Court of Criminal Appeals of Oklahoma the question of whether the statute was a criminal statute. The Court of Criminal Appeals ruled that it was a criminal statute in *Whirlpool Corp. v. Henry*, 110 P.3d 83 (Okla. Crim. App. 2005).

⁹ House Bill 1028 passed the Committee on Public Safety and Homeland Security in the Indiana House of Representatives on January 25, 2006. House Bill 998 has been referred to the Committee on Public Safety in the Georgia House of Representatives.

¹⁰ Violence in the Workplace, 1993-99, published by the Bureau of Justice Statistics, December 2001 (NCJ 190076).

C. SECTION DIRECTORY:

Section 1. Amends s. 790.25, F.S., relating to the lawful ownership, possession, and use of firearms and other weapons.

Section 2. Amends s. 27.53, F.S., relating to the appointment of assistants and other staff by public defenders to conform a cross-reference.

Section 3. Provides that the bill will become effective upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

While the bill does create a new felony penalty which is unranked on the offense severity chart in s. 921.0013, F.S., third degree felonies rarely result in jail or prison time. The Criminal Justice Estimating Conference routinely classifies new third degree felony penalties as having no fiscal impact or insignificant fiscal impact. See also additional fiscal comments in "D." below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any significant impact on local government revenues. See also additional fiscal comments in "D." below.

2. Expenditures:

The bill does not appear to have any impact on local governments' expenditures. While it does create a new felony penalty, third degree felonies rarely result in jail or prison time. See also additional fiscal comments in "D." below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The economic impact on the private is unclear. Employers that have policies regarding the possession of firearms in vehicles in their parking lots will no longer enjoy these policies. However, employers may enjoy greater protection from liability regarding the use of a firearm in the employer's parking lot that was lawfully stored in a vehicle. It is unknown how many employers have these policies.

D. FISCAL COMMENTS:

The bill creates a criminal penalty of a felony of the third degree. Any third degree felony conviction under the bill's provisions could result in a fine of up to \$5,000. Pursuant to s. 142.01, F.S., as of July 1, 2004, fines collected under the penal laws of the state are distributed to the Clerk of Courts of the respective county where the prosecution occurred.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this joint resolution does not appear to require counties or cities to: spend funds or take action requiring the expenditure of funds; reduce the authority of counties or cities to raises revenues in the aggregate; or reduce the percentage of a state tax shared with counties or cities.

2. Other:

Preemption

There may be some federal laws that specifically regulate the premises of certain employers, including their parking lots. In its memorandum of law in the case challenging the Oklahoma statute, Haliburton Energy Services, Inc. argues that federal laws regulating nuclear safety,¹¹ oil and gas operations,¹² and the use of explosives,¹³ preempt the state law as it applies to the premises of these businesses.¹⁴ It has also been argued in this same case that the federal Occupational Safety and Health Act¹⁵ preempts the state statute.¹⁶ Federal law is considered to have preempted a specific area of law when Congress has shown its intent to occupy a given field. When Congress is determined to have shown such an intent, a court may strike down a state law that attempts to regulate this same field of law. A Court may find that Congress has completely preempted an area of law or it may find that the preemption is only a partial preemption and some state regulation may be allowed.

Access to Courts

The bill provides immunity for persons and entities from civil liability in lawsuits for certain actions involving the use of firearms. This provision may implicate the "access to court" protections of the Florida Constitution.¹⁷ The Florida Supreme Court has held that that where a right to access the courts for redress for a particular injury predates the adoption of the access to courts provision in the 1968 state constitution, the Legislature cannot abolish the right without providing a reasonable alternative unless the Legislature can show (1) an overpowering public necessity to abolish the right and (2) no alternative method of meeting such public necessity.¹⁸ A litigant could argue that the bill denies him or her access to the courts if a cause of action existed under Florida law before the adoption of the access to courts provision in 1968. Should a court find a cause of action did not

¹¹ Atomic Energy Act of 1954 (42 USCA § 2011 et seq.).

¹² Pipeline Safety Act (49 USCA § 60101 et seq.).

¹³ Explosives Act (18 USCA § 841 et seq.).

¹⁴ See Brief of Halliburton Energy Services, Inc., As Amicus Curiae in Support of Plaintiff's Complaint and Plaintiff's Motion for A Permanent Injunction, WHIRLPOOL CORP. v. HENRY, Case No. 04CV 820H (J), United States District Court, N.D. Oklahoma.

¹⁵ 29 U.S.C. § 651, et seq.

¹⁶ See Plaintiff's Opening Memorandum in Support of Motion for a Temporary Restraining Order and/or a Preliminary Injunction on behalf of Plaintiff Whirlpool Corporation, WHIRLPOOL CORP. v. HENRY, Case No. 04CV 820H (J), United States District Court, N.D. Oklahoma.

¹⁷ Article I, section 21 of the Florida Constitution provides: "The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay." See generally 10A FLA. JUR. 2D CONSTITUTIONAL LAW §§ 360-69.

¹⁸ See *Kluger v. White*, 281 So. 2d 1 (Fla. 1973).

exist, the judicial inquiry would end at that point. But it is also possible that a court could hold that pre-1968 Florida law would have allowed such suits under the common-law cause of action for negligence. If so, this bill might be evaluated under the *Kluger* standard.

Right to Bear Arms

The Florida Constitution¹⁹ and the U.S. Constitution²⁰ contain provisions protecting a citizen's right to bear arms. However, these provisions are not implicated without some sort of state action.²¹ The Florida Supreme Court, in interpreting Florida's constitutional provision, held that while "the Legislature may not entirely prohibit the right of the people to keep and bear arms, it can determine that certain arms or weapons may not be kept or borne by the citizen."²²

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The effective date of this bill is upon becoming a law. The bill contains a new criminal penalty. Typically, when creating a criminal penalty, the public may need to be given some time to be put on notice of its creation.

The bill applies to policies or rules affecting any property that has been set aside for the parking of motor vehicles. The bill does not distinguish between commercial property or residential property. If the bill is intended to apply to commercial property only, it may need to be clarified.

The bill provides that a person or entity may not establish, maintain, or enforce a policy or rule that has the effect of prohibiting the otherwise lawful possession of a firearm that **is locked in or locked to a** motor vehicle that is on any premises set aside for the parking of motor vehicles. However, the bill provides immunity from civil liability to any person or entity for damages in certain occurrences resulting from the use of a firearm that was lawfully transported and **stored in a locked motor vehicle** on the person's or entity's property that was set aside for the parking of motor vehicles. If these provisions are to be consistent, the bill may need to be amended.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

¹⁹ "The right of the people to keep and bear arms in defense of themselves and of the lawful authority of the state shall not be infringed, except that the manner of bearing arms may be regulated by law." Art. I, s. 8(a), Fla. Const.

²⁰ "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." U.S. Const. amend. II.

²¹ See Validity of state gun control legislation under state constitutional provisions securing the right to bear arms, 86 A.L.R.4th 93; Constitutional right to bear arms--Federal constitution; generally-- Relationship of right to bear arms to preservation of a militia 79 Am. Jur. 2d Weapons and Firearms § 6.

²² *Rinzler v. Carson*, 262 So.2d 661, 665 (Fla. 1972).

A bill to be entitled

An act relating to lawful ownership, possession, and use of firearms and other weapons; amending s. 790.25, F.S.; prohibiting specified persons, employers, and business entities from establishing, maintaining, or enforcing any policy or rule that prohibits a person from parking a motor vehicle on property set aside for such purpose when a secured firearm or firearms are being lawfully transported and stored in the motor vehicle; providing a penalty; providing construction; providing for specified immunity from liability; providing civil remedies; defining "motor vehicle" for purposes of the act; providing intent; amending s. 27.53, F.S.; conforming a cross-reference; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 790.25, Florida Statutes, is amended to read:

790.25 Lawful ownership, possession, and use of firearms and other weapons.--

(1) DECLARATION OF POLICY.--The Legislature finds as a matter of public policy and fact that it is necessary to promote firearms safety and to curb and prevent the use of firearms and other weapons in crime and by incompetent persons without prohibiting the lawful use in defense of life, home, and property, and the use by United States or state military organizations, and as otherwise now authorized by law, including

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the right to use and own firearms for target practice and marksmanship on target practice ranges or other lawful places, and lawful hunting and other lawful purposes.

(2) USES NOT AUTHORIZED.--

(a) This section does not authorize carrying a concealed weapon without a permit, as prohibited by ss. 790.01 and 790.02.

(b) The protections of this section do not apply to the following:

1. A person who has been adjudged mentally incompetent, who is addicted to the use of narcotics or any similar drug, or who is a habitual or chronic alcoholic, or a person using weapons or firearms in violation of ss. 790.07-790.12, 790.14-790.19, 790.22-790.24.+

2. Vagrants and other undesirable persons as defined in s. 856.02.+

3. A person in or about a place of nuisance as defined in s. 823.05, unless such person is there for law enforcement or some other lawful purpose.

(3) LAWFUL USES.--The provisions of ss. 790.053 and 790.06 do not apply in the following instances, and, despite such sections, it is lawful for the following persons to own, possess, and lawfully use firearms and other weapons, ammunition, and supplies for lawful purposes:

(a) Members of the Militia, National Guard, Florida State Defense Force, Army, Navy, Air Force, Marine Corps, Coast Guard, organized reserves, and other armed forces of the state and of the United States, when on duty, when training or preparing

56 themselves for military duty, or while subject to recall or
57 mobilization.+

58 (b) Citizens of this state subject to duty in the Armed
59 Forces under s. 2, Art. X of the State Constitution, under
60 chapters 250 and 251, and under federal laws, when on duty or
61 when training or preparing themselves for military duty.+

62 (c) Persons carrying out or training for emergency
63 management duties under chapter 252.+

64 (d) Sheriffs, marshals, prison or jail wardens, police
65 officers, Florida highway patrol officers, game wardens, revenue
66 officers, forest officials, special officers appointed under the
67 provisions of chapter 354, and other peace and law enforcement
68 officers and their deputies and assistants and full-time paid
69 peace officers of other states and of the Federal Government who
70 are carrying out official duties while in this state.+

71 (e) Officers or employees of the state or United States
72 duly authorized to carry a concealed weapon.+

73 (f) Guards or messengers of common carriers, express
74 companies, armored car carriers, mail carriers, banks, and other
75 financial institutions, while actually employed in and about the
76 shipment, transportation, or delivery of any money, treasure,
77 bullion, bonds, or other thing of value within this state.+

78 (g) Regularly enrolled members of any organization duly
79 authorized to purchase or receive weapons from the United States
80 or from this state, or regularly enrolled members of clubs
81 organized for target, skeet, or trap shooting, while at or going
82 to or from shooting practice; or regularly enrolled members of
83 clubs organized for modern or antique firearms collecting, while

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84 such members are at or going to or from their collectors' gun
85 shows, conventions, or exhibits.†

86 (h) A person engaged in fishing, camping, or lawful
87 hunting or going to or returning from a fishing, camping, or
88 lawful hunting expedition.†

89 (i) A person engaged in the business of manufacturing,
90 repairing, or dealing in firearms, or the agent or
91 representative of any such person while engaged in the lawful
92 course of such business.†

93 (j) A person firing weapons for testing or target practice
94 under safe conditions and in a safe place not prohibited by law
95 or going to or from such place.†

96 (k) A person firing weapons in a safe and secure indoor
97 range for testing and target practice.†

98 (l) A person traveling by private conveyance when the
99 weapon is securely encased or in a public conveyance when the
100 weapon is securely encased and not in the person's manual
101 possession.†

102 (m) A person parking a motor vehicle on any property set
103 aside for the parking of a motor vehicle, whether or not such
104 property is designated as a parking lot, parking facility, or
105 parking space, when a firearm or firearms are being lawfully
106 stored and transported in the motor vehicle and the firearm or
107 firearms are locked in or locked to the motor vehicle.

108 ~~(n)-(m)~~ A person while carrying a pistol unloaded and in a
109 secure wrapper, concealed or otherwise, from the place of
110 purchase to his or her home or place of business or to a place
111 of repair or back to his or her home or place of business.†

112 ~~(o)(n)~~ A person possessing arms at his or her home or
113 place of business.†

114 ~~(p)(e)~~ Investigators employed by the several public
115 defenders of the state, while actually carrying out official
116 duties, provided such investigators:

- 117 1. Are employed full time;
- 118 2. Meet the official training standards for firearms
119 established by the Criminal Justice Standards and Training
120 Commission as provided in s. 943.12(5) and the requirements of
121 ss. 493.6108(1)(a) and 943.13(1) - (4); and
- 122 3. Are individually designated by an affidavit of consent
123 signed by the employing public defender and filed with the clerk
124 of the circuit court in the county in which the employing public
125 defender resides.

126 ~~(q)(p)~~ Investigators employed by the capital collateral
127 representative, while actually carrying out official duties,
128 provided such investigators:

- 129 1. Are employed full time;
- 130 2. Meet the official training standards for firearms as
131 established by the Criminal Justice Standards and Training
132 Commission as provided in s. 943.12(1) and the requirements of
133 ss. 493.6108(1)(a) and 943.13(1) - (4); and
- 134 3. Are individually designated by an affidavit of consent
135 signed by the capital collateral representative and filed with
136 the clerk of the circuit court in the county in which the
137 investigator is headquartered.

138 (4) CONSTRUCTION.--This act shall be liberally construed
139 to carry out the declaration of policy herein and in favor of

140 the constitutional right to keep and bear arms for lawful
141 purposes. This act is supplemental and additional to existing
142 rights to bear arms now guaranteed by law and decisions of the
143 courts of Florida, and nothing herein shall impair or diminish
144 any of such rights. This act shall supersede any law, ordinance,
145 or regulation in conflict herewith.

146 (5) POSSESSION IN PRIVATE CONVEYANCE.--Notwithstanding
147 subsection (2), it is lawful and is not a violation of s. 790.01
148 for a person 18 years of age or older to possess a concealed
149 firearm or other weapon for self-defense or other lawful purpose
150 within the interior of a private conveyance, without a license,
151 if the firearm or other weapon is securely encased or is
152 otherwise not readily accessible for immediate use. Nothing
153 herein contained prohibits the carrying of a legal firearm other
154 than a handgun anywhere in a private conveyance when such
155 firearm is being carried for a lawful use. Nothing herein
156 contained shall be construed to authorize the carrying of a
157 concealed firearm or other weapon on the person. This subsection
158 shall be liberally construed in favor of the lawful use,
159 ownership, and possession of firearms and other weapons,
160 including lawful self-defense as provided in s. 776.012.

161 (6) STORAGE AND TRANSPORT OF FIREARMS IN LOCKED VEHICLE IN
162 PARKING AREA; PENALTY; IMMUNITY FROM LIABILITY.--

163 (a) No person, property owner, tenant, employer, or
164 business entity shall establish, maintain, or enforce any policy
165 or rule that prohibits or has the effect of prohibiting any
166 person who may lawfully possess, purchase, receive, or transfer
167 firearms from parking a motor vehicle on any property set aside

168 for the parking of a motor vehicle, whether or not such property
169 is designated as a parking lot, parking facility, or parking
170 space, when the person is lawfully transporting and storing a
171 firearm or firearms in the motor vehicle and the firearm or
172 firearms are locked in or locked to the motor vehicle. Any
173 person, property owner, tenant, employer, or owner of a business
174 entity who violates this paragraph commits a felony of the third
175 degree, punishable as provided in s. 775.082, s. 775.083, and s.
176 775.084. This subsection shall be liberally construed in favor
177 of the lawful use, ownership, and possession of firearms and
178 other weapons, including lawful self-defense as provided in s.
179 776.012.

180 (b) No person, property owner, tenant, employer, or
181 business entity shall be liable in any civil action for any
182 occurrence which results from, is connected with, or is
183 incidental to the use of a firearm which is being lawfully
184 transported and stored in a locked motor vehicle on any property
185 set aside for the parking of motor vehicles as provided in
186 paragraph (a), unless the person, property owner, tenant,
187 employer, or owner of the business entity commits a criminal act
188 involving the use of such firearm.

189 (c)1. A person who is injured, physically or otherwise, as
190 a result of any policy or rule prohibited by paragraph (a) may
191 bring a civil action in the appropriate court against any
192 person, property owner, tenant, employer, or business entity
193 violating the provisions of paragraph (a), including an action
194 to enforce this subsection. If a plaintiff prevails in a civil
195 action related to a policy or rule prohibited by this act, the

196 court shall award actual damages, enjoin further violations of
197 this act, and award court costs and attorney's fees to the
198 prevailing plaintiff.

199 2. An employee discharged by an employer or business
200 entity for violation of a policy or rule prohibited under
201 paragraph (a), when such employee was lawfully transporting or
202 storing a firearm in a locked motor vehicle on property set
203 aside by the employer or business entity for the parking of
204 motor vehicles as provided in paragraph (a), is entitled to full
205 recovery as specified in sub-subparagraphs a.-d. In the event
206 the demand for such recovery is denied, the employee may bring a
207 civil action in the courts of this state against the employer
208 and is entitled to:

209 a. Reinstatement to the same position held at the time of
210 his or her termination from employment, or to an equivalent
211 position.

212 b. Reinstatement of the employee's full fringe benefits
213 and seniority rights, as appropriate.

214 c. Compensation, if appropriate, for lost wages, benefits,
215 or other lost remuneration caused by the termination.

216 d. Payment of reasonable attorney's fees and costs
217 incurred.

218 (d) As used in this section, "motor vehicle" means any
219 automobile, truck, minivan, sports utility vehicle, motorcycle,
220 motor scooter, or any other vehicle required to be registered
221 under Florida law.

222 (e) It is the intent of this subsection to reinforce and
223 protect the right of each law-abiding citizen to enter and exit

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224 | any parking lot, parking facility, or space used for the parking
 225 | of motor vehicles while such person is lawfully transporting and
 226 | storing a firearm or firearms in the motor vehicle and the
 227 | firearm or firearms are locked in or locked to the motor
 228 | vehicle, to avail himself or herself of temporary or long-term
 229 | parking or storage of a motor vehicle, and to prohibit any
 230 | infringement of the right to lawful possession of firearms when
 231 | such firearms are being transported and stored in a vehicle for
 232 | a lawful purpose.

233 | Section 2. Subsection (1) of section 27.53, Florida
 234 | Statutes, is amended to read:

235 | 27.53 Appointment of assistants and other staff; method of
 236 | payment.--

237 | (1) The public defender of each judicial circuit is
 238 | authorized to employ and establish, in such numbers as
 239 | authorized by the General Appropriations Act, assistant public
 240 | defenders and other staff and personnel pursuant to s. 29.006,
 241 | who shall be paid from funds appropriated for that purpose.
 242 | Notwithstanding the provisions of s. 790.01, s. 790.02, or s.
 243 | 790.25(2)(a), an investigator employed by a public defender,
 244 | while actually carrying out official duties, is authorized to
 245 | carry concealed weapons if the investigator complies with s.
 246 | 790.25(3) (p) ~~(e)~~. However, such investigators are not eligible
 247 | for membership in the Special Risk Class of the Florida
 248 | Retirement System. The public defenders of all judicial circuits
 249 | shall jointly develop a coordinated classification and pay plan
 250 | which shall be submitted on or before January 1 of each year to
 251 | the Justice Administrative Commission, the office of the

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252 President of the Senate, and the office of the Speaker of the
253 House of Representatives. Such plan shall be developed in
254 accordance with policies and procedures of the Executive Office
255 of the Governor established in s. 216.181. Each assistant public
256 defender appointed by a public defender under this section shall
257 serve at the pleasure of the public defender. Each investigator
258 employed by a public defender shall have full authority to serve
259 any witness subpoena or court order issued, by any court or
260 judge within the judicial circuit served by such public
261 defender, in a criminal case in which such public defender has
262 been appointed to represent the accused.

263 Section 3. This act shall take effect upon becoming a law.

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House Joint Resolution

A joint resolution proposing the revision of the whole State Constitution to correct spelling errors, punctuation errors, inconsistent use of capitalization, and other technical issues; to repeal obsolete provisions.

Be It Resolved by the Legislature of the State of Florida:

That the following revision to the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

PREAMBLE

We, the people of the State of Florida, being grateful to Almighty God for our constitutional liberty, in order to secure its benefits, perfect our government, ensure ~~insure~~ domestic tranquility, maintain public order, and guarantee equal civil and political rights to all, do ordain and establish this constitution.

ARTICLE I

DECLARATION OF RIGHTS

SECTION 1. Political power.--All political power is inherent in the people. The enunciation herein of certain rights shall not be construed to deny or impair others retained by the people.

SECTION 2. Basic rights.--All natural persons, female and

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30 male alike, are equal before the law and have inalienable rights,
31 among which are the right to enjoy and defend life and liberty,
32 to pursue happiness, to be rewarded for industry, and to acquire,
33 possess, and protect property; except that the ownership,
34 inheritance, disposition, and possession of real property by
35 aliens ineligible for citizenship may be regulated or prohibited
36 by law. No person shall be deprived of any right because of
37 race, religion, national origin, or physical disability.

38 SECTION 3. Religious freedom.--There shall be no law
39 respecting the establishment of religion or prohibiting or
40 penalizing the free exercise thereof. Religious freedom shall not
41 justify practices inconsistent with public morals, peace, or
42 safety. No revenue of the state or any political subdivision or
43 agency thereof shall ever be taken from the public treasury
44 directly or indirectly in aid of any church, sect, or religious
45 denomination or in aid of any sectarian institution.

46 SECTION 4. Freedom of speech and press.--Every person may
47 speak, write, and publish sentiments on all subjects but shall be
48 responsible for the abuse of that right. No law shall be passed
49 to restrain or abridge the liberty of speech or of the press. In
50 all criminal prosecutions and civil actions for defamation, the
51 truth may be given in evidence. If the matter charged as
52 defamatory is true and was published with good motives, the party
53 shall be acquitted or exonerated.

54 SECTION 5. Right to assemble.--The people shall have the
55 right peaceably to assemble, to instruct their representatives,
56 and to petition for redress of grievances.

57 SECTION 6. Right to work.--The right of persons to work
58 shall not be denied or abridged on account of membership or

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nonmembership ~~non-membership~~ in any labor union or labor organization. The right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged. Public employees shall not have the right to strike.

SECTION 7. Military power.--The military power shall be subordinate to the civil.

SECTION 8. Right to bear arms.--

(a) The right of the people to keep and bear arms in defense of themselves and of the lawful authority of the state shall not be infringed, except that the manner of bearing arms may be regulated by law.

(b) There shall be a mandatory period of three days, excluding weekends and legal holidays, between the purchase and delivery at retail of any handgun. For the purposes of this section, "purchase" means the transfer of money or other valuable consideration to the retailer, and "handgun" means a firearm capable of being carried and used by one hand, such as a pistol or revolver. Holders of a concealed weapon permit as prescribed in Florida law shall not be subject to the provisions of this paragraph.

(c) The legislature shall enact legislation implementing subsection (b) of this section, ~~effective no later than December 31, 1991,~~ which shall provide that anyone violating the provisions of subsection (b) shall be guilty of a felony.

(d) This restriction shall not apply to a trade in of another handgun.

SECTION 9. Due process.--No person shall be deprived of life, liberty, or property without due process of law, or be twice put in jeopardy for the same offense, or be compelled in

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any criminal matter to be a witness against oneself.

SECTION 10. Prohibited laws.--No bill of attainder, ex post facto law, or law impairing the obligation of contracts shall be passed.

SECTION 11. Imprisonment for debt.--No person shall be imprisoned for debt, except in cases of fraud.

SECTION 12. Searches and seizures.--The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, and against the unreasonable interception of private communications by any means, shall not be violated. No warrant shall be issued except upon probable cause, supported by affidavit, particularly describing the place or places to be searched; the person or persons, thing, or things to be seized; the communication to be intercepted; and the nature of evidence to be obtained. This right shall be construed in conformity with the Fourth 4th Amendment to the United States Constitution, as interpreted by the United States Supreme Court. Articles or information obtained in violation of this right shall not be admissible in evidence if such articles or information would be inadmissible under decisions of the United States Supreme Court construing the Fourth 4th Amendment to the United States Constitution.

SECTION 13. Habeas corpus.--The writ of habeas corpus shall be grantable of right, freely and without cost. It shall be returnable without delay, and shall never be suspended unless, in case of rebellion or invasion, suspension is essential to the public safety.

SECTION 14. Pretrial release and detention.--Unless charged with a capital offense or an offense punishable by life

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imprisonment and the proof of guilt is evident or the presumption is great, every person charged with a crime or violation of municipal or county ordinance shall be entitled to pretrial release on reasonable conditions. If no conditions of release can reasonably protect the community from risk of physical harm to persons, assure the presence of the accused at trial, or assure the integrity of the judicial process, the accused may be detained.

SECTION 15. Prosecution for crime; offenses committed by children.--

(a) No person shall be tried for capital crime without presentment or indictment by a grand jury, or for other felony without such presentment or indictment or an information under oath filed by the prosecuting officer of the court, except persons on active duty in the militia when tried by courts-
martial ~~courts martial~~.

(b) When authorized by law, a child as therein defined may be charged with a violation of law as an act of delinquency instead of crime and tried without a jury or other requirements applicable to criminal cases. Any child so charged shall, upon demand made as provided by law before a trial in a juvenile proceeding, be tried in an appropriate court as an adult. A child found delinquent shall be disciplined as provided by law.

SECTION 16. Rights of accused and of victims.--

(a) In all criminal prosecutions the accused shall, upon demand, be informed of the nature and cause of the accusation, and shall be furnished a copy of the charges, and shall have the right to have compulsory process for witnesses, to confront at trial adverse witnesses, to be heard in person, by counsel or

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146 both, and to have a speedy and public trial by impartial jury in
147 the county where the crime was committed. If the county is not
148 known, the indictment or information may charge venue in two or
149 more counties conjunctively and proof that the crime was
150 committed in that area shall be sufficient; but before pleading
151 the accused may elect in which of those counties the trial will
152 take place. Venue for prosecution of crimes committed beyond the
153 boundaries of the state shall be fixed by law.

154 (b) Victims of crime or their lawful representatives,
155 including the next of kin of homicide victims, are entitled to
156 the right to be informed, to be present, and to be heard when
157 relevant, at all crucial stages of criminal proceedings, to the
158 extent that these rights do not interfere with the constitutional
159 rights of the accused.

160 SECTION 17. Excessive punishments.--Excessive fines, cruel
161 and unusual punishment, attainder, forfeiture of estate,
162 indefinite imprisonment, and unreasonable detention of witnesses
163 are forbidden. The death penalty is an authorized punishment for
164 capital crimes designated by the legislature. The prohibition
165 against cruel or unusual punishment, and the prohibition against
166 cruel and unusual punishment, shall be construed in conformity
167 with decisions of the United States Supreme Court which interpret
168 the prohibition against cruel and unusual punishment provided in
169 the Eighth Amendment to the United States Constitution. Any
170 method of execution shall be allowed, unless prohibited by the
171 United States Constitution. Methods of execution may be
172 designated by the legislature, and a change in any method of
173 execution may be applied retroactively. A sentence of death
174 shall not be reduced on the basis that a method of execution is

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invalid. In any case in which an execution method is declared invalid, the death sentence shall remain in force until the sentence can be lawfully executed by any valid method. This section shall apply retroactively.

SECTION 18. Administrative penalties.--No administrative agency, except the Department of Military Affairs in an appropriately convened court-martial action as provided by law, shall impose a sentence of imprisonment, nor shall it impose any other penalty except as provided by law.

SECTION 19. Costs.--No person charged with crime shall be compelled to pay costs before a judgment of conviction has become final.

SECTION 20. Treason.--Treason against the state shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort, and no person shall be convicted of treason except on the testimony of two witnesses to the same overt act or on confession in open court.

SECTION 21. Access to courts.--The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial, or delay.

SECTION 22. Trial by jury.--The right of trial by jury shall be secure to all and remain inviolate. The qualifications and the number of jurors, not fewer than six, shall be fixed by law.

SECTION 23. Right of privacy.--Every natural person has the right to be let alone and free from governmental intrusion into the person's private life except as otherwise provided herein. This section shall not be construed to limit the public's right of access to public records and meetings as provided by law.

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204 SECTION 24. Access to public records and meetings.--

205 (a) Every person has the right to inspect or copy any
206 public record made or received in connection with the official
207 business of any public body, officer, or employee of the state,
208 or persons acting on their behalf, except with respect to records
209 exempted pursuant to this section or specifically made
210 confidential by this Constitution. This section specifically
211 includes the legislative, executive, and judicial branches of
212 government and each agency or department created thereunder;
213 counties, municipalities, and districts; and each constitutional
214 officer, board, and commission, or entity created pursuant to law
215 or this Constitution.

216 (b) All meetings of any collegial public body of the
217 executive branch of state government or of any collegial public
218 body of a county, municipality, school district, or special
219 district, at which official acts are to be taken or at which
220 public business of such body is to be transacted or discussed,
221 shall be open and noticed to the public and meetings of the
222 legislature shall be open and noticed as provided in Article III,
223 Section 4(e), except with respect to meetings exempted pursuant
224 to this section or specifically closed by this Constitution.

225 (c) This section shall be self-executing. The legislature,
226 however, may provide by general law passed by a two-thirds vote
227 of each house for the exemption of records from the requirements
228 of subsection (a) and the exemption of meetings from the
229 requirements of subsection (b), provided that such law shall
230 state with specificity the public necessity justifying the
231 exemption and shall be no broader than necessary to accomplish
232 the stated purpose of the law. The legislature shall enact laws

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governing the enforcement of this section, including the maintenance, control, destruction, disposal, and disposition of records made public by this section, except that each house of the legislature may adopt rules governing the enforcement of this section in relation to records of the legislative branch. Laws enacted pursuant to this subsection shall contain only exemptions from the requirements of subsection ~~subsections~~ (a) or subsection (b) and provisions governing the enforcement of this section, and shall relate to one subject.

(d) All laws that are in effect on July 1, 1993 that limit public access to records or meetings shall remain in force, and such laws apply to records of the legislative and judicial branches, until they are repealed. Rules of court that are in effect on the date of adoption of this section that limit access to records shall remain in effect until they are repealed.

SECTION 25. Taxpayers' Bill of Rights.--By general law the legislature shall prescribe and adopt a Taxpayers' Bill of Rights that, in clear and concise language, sets forth taxpayers' rights and responsibilities and government's responsibilities to deal fairly with taxpayers under the laws of this state. ~~This section shall be effective July 1, 1993.~~

SECTION 26. Claimant's right to fair compensation.--

~~(a) Article I, Section 26 is created to read "Claimant's right to fair compensation."~~ In any medical liability claim involving a contingency fee, the claimant is entitled to receive no less than 70 percent ~~70%~~ of the first \$250,000 ~~\$250,000.00~~ in all damages received by the claimant, exclusive of reasonable and customary costs, whether received by judgment, settlement, or otherwise, and regardless of the number of defendants. The

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claimant is entitled to 90 percent 90% of all damages in excess of \$250,000 ~~\$250,000.00~~, exclusive of reasonable and customary costs and regardless of the number of defendants. This provision is self-executing and does not require implementing legislation.

~~(b) This Amendment shall take effect on the day following approval by the voters.~~

ARTICLE II
GENERAL PROVISIONS

SECTION 1. State boundaries.--

(a) The state boundaries are: Begin at the mouth of the Perdido River, which for the purposes of this description is defined as the point where latitude 30°16'53" north and longitude 87°31'06" west intersect; thence to the point where latitude 30°17'02" north and longitude 87°31'06" west intersect; thence to the point where latitude 30°18'00" north and longitude 87°27'08" west intersect; thence to the point where the center line of the Intracoastal Canal (as the same existed on June 12, 1953) and longitude 87°27'00" west intersect; the same being in the middle of the Perdido River; thence up the middle of the Perdido River to the point where it intersects the south boundary of the State of Alabama, being also the point of intersection of the middle of the Perdido River with latitude 31°00'00" north; thence east, along the south boundary line of the State of Alabama, the same being latitude 31°00'00" north to the middle of the Chattahoochee River; thence down the middle of said river to its confluence with the Flint River; thence in a straight line to the head of the St. Marys River; thence down the middle of said river to the Atlantic Ocean; thence due east to the edge of the Gulf Stream or

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291 a distance of three geographic miles whichever is the greater
 292 distance; thence in a southerly direction along the edge of the
 293 Gulf Stream or along a line three geographic miles from the
 294 Atlantic coastline and three leagues distant from the Gulf of
 295 Mexico coastline, whichever is greater, to and through the
 296 Straits of Florida and westerly, including the Florida reefs, to
 297 a point due south of and three leagues from the southernmost
 298 point of the Marquesas Keys; thence westerly along a straight
 299 line to a point due south of and three leagues from Loggerhead
 300 Key, the westernmost of the Dry Tortugas Islands; thence
 301 westerly, northerly and easterly along the arc of a curve three
 302 leagues distant from Loggerhead Key to a point due north of
 303 Loggerhead Key; thence northeast along a straight line to a point
 304 three leagues from the coastline of Florida; thence northerly and
 305 westerly three leagues distant from the coastline to a point west
 306 of the mouth of the Perdido River three leagues from the
 307 coastline as measured on a line bearing south 0°01'00" west from
 308 the point of beginning; thence northerly along said line to the
 309 point of beginning. The State of Florida shall also include any
 310 additional territory within the United States adjacent to the
 311 Peninsula of Florida lying south of the St. Marys River, east of
 312 the Perdido River, and south of the States of Alabama and
 313 Georgia.

314 (b) The coastal boundaries may be extended by statute to
 315 the limits permitted by the laws of the United States or
 316 international law.

317 SECTION 2. Seat of government.--The seat of government
 318 shall be the City of Tallahassee, in Leon County, where the
 319 offices of the governor, lieutenant governor, cabinet members,

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and the supreme court shall be maintained and the sessions of the legislature shall be held; provided that, in time of invasion or grave emergency, the governor by proclamation may for the period of the emergency transfer the seat of government to another place.

SECTION 3. Branches of government.--The powers of the state government shall be divided into legislative, executive, and judicial branches. No person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein.

SECTION 4. State seal and flag.--The design of the great seal and flag of the state shall be prescribed by law.

SECTION 5. Public officers.--

(a) No person holding any office of emolument under any foreign government, or civil office of emolument under the United States or any other state, shall hold any office of honor or of emolument under the government of this state. No person shall hold at the same time more than one office under the government of the state and the counties and municipalities therein, except that a notary public or military officer may hold another office, and any officer may be a member of a constitution revision commission, taxation and budget reform commission, constitutional convention, or statutory body having only advisory powers.

(b) Each state and county officer, before entering upon the duties of the office, shall give bond as required by law, and shall swear or affirm:

"I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to

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hold office under the Constitution of the state; and that I will well and faithfully perform the duties of (title of office) on which I am now about to enter. So help me God.",

and thereafter shall devote personal attention to the duties of the office, and continue in office until a successor qualifies.

(c) The powers, duties, compensation, and method of payment of state and county officers shall be fixed by law.

SECTION 6. Enemy attack.--In periods of emergency resulting from enemy attack the legislature shall have power to provide for prompt and temporary succession to the powers and duties of all public offices the incumbents of which may become unavailable to execute the functions of their offices, and to adopt such other measures as may be necessary and appropriate to ensure ~~insure~~ the continuity of governmental operations during the emergency. In exercising these powers, the legislature may depart from other requirements of this constitution, but only to the extent necessary to meet the emergency.

SECTION 7. Natural resources and scenic beauty.--

(a) It shall be the policy of the state to conserve and protect its natural resources and scenic beauty. Adequate provision shall be made by law for the abatement of air and water pollution and of excessive and unnecessary noise and for the conservation and protection of natural resources.

(b) Those in the Everglades Agricultural Area who cause water pollution within the Everglades Protection Area or the Everglades Agricultural Area shall be primarily responsible for paying the costs of the abatement of that pollution. For the purposes of this subsection, the terms "Everglades Protection

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Area" and "Everglades Agricultural Area" shall have the meanings as defined in statutes in effect on January 1, 1996.

SECTION 8. Ethics in government.--A public office is a public trust. The people shall have the right to secure and sustain that trust against abuse. To assure this right:

(a) All elected constitutional officers and candidates for such offices and, as may be determined by law, other public officers, candidates, and employees shall file full and public disclosure of their financial interests.

(b) All elected public officers and candidates for such offices shall file full and public disclosure of their campaign finances.

(c) Any public officer or employee who breaches the public trust for private gain and any person or entity inducing such breach shall be liable to the state for all financial benefits obtained by such actions. The manner of recovery and additional damages may be provided by law.

(d) Any public officer or employee who is convicted of a felony involving a breach of public trust shall be subject to forfeiture of rights and privileges under a public retirement system or pension plan in such manner as may be provided by law.

(e) No member of the legislature or statewide elected officer shall personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of two years following vacation of office. No member of the legislature shall personally represent another person or entity for compensation during term of office before any state agency other than judicial tribunals. Similar restrictions on other public officers and

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employees may be established by law.

(f) There shall be an independent commission to conduct investigations and make public reports on all complaints concerning breach of public trust by public officers or employees not within the jurisdiction of the judicial qualifications commission.

(g) A code of ethics for all state employees and nonjudicial officers prohibiting conflict between public duty and private interests shall be prescribed by law.

(h) This section shall not be construed to limit disclosures and prohibitions which may be established by law to preserve the public trust and avoid conflicts between public duties and private interests.

(i) Schedule--On the effective date of this amendment and until changed by law:

(1) Full and public disclosure of financial interests shall mean filing with the custodian of state records by July 1 of each year a sworn statement showing net worth and identifying each asset and liability in excess of \$1,000 and its value together with one of the following:

a. A copy of the person's most recent federal income tax return; or

b. A sworn statement which identifies each separate source and amount of income which exceeds \$1,000. The forms for such source disclosure and the rules under which they are to be filed shall be prescribed by the independent commission established in subsection (f), and such rules shall include disclosure of secondary sources of income.

(2) Persons holding statewide elective offices shall also

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file disclosure of their financial interests pursuant to subsection (i)(1).

(3) The independent commission provided for in subsection (f) shall mean the Florida Commission on Ethics.

SECTION 9. English is the official language of Florida.--

(a) English is the official language of the State of Florida.

(b) The legislature shall have the power to enforce this section by appropriate legislation.

ARTICLE III

LEGISLATURE

SECTION 1. Composition.--The legislative power of the state shall be vested in a legislature of the State of Florida, consisting of a senate composed of one senator elected from each senatorial district and a house of representatives composed of one member elected from each representative district.

SECTION 2. Members; officers.--Each house shall be the sole judge of the qualifications, elections, and returns of its members, and shall biennially choose its officers, including a permanent presiding officer selected from its membership, who shall be designated in the senate as President of the Senate, and in the house as Speaker of the House of Representatives. The senate shall designate a Secretary to serve at its pleasure, and the house of representatives shall designate a Clerk to serve at its pleasure. The legislature shall appoint an auditor to serve at its pleasure who shall audit public records and perform related duties as prescribed by law or concurrent resolution.

SECTION 3. Sessions of the legislature.--

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(a) ORGANIZATION SESSIONS. On the fourteenth day following each general election the legislature shall convene for the exclusive purpose of organization and selection of officers.

(b) REGULAR SESSIONS. A regular session of the legislature shall convene on the first Tuesday after the first Monday in March of each odd-numbered year, and on the first Tuesday after the first Monday in March, or such other date as may be fixed by law, of each even-numbered year.

(c) SPECIAL SESSIONS.

(1) The governor, by proclamation stating the purpose, may convene the legislature in special session during which only such legislative business may be transacted as is within the purview of the proclamation, or of a communication from the governor, or is introduced by consent of two-thirds of the membership of each house.

(2) A special session of the legislature may be convened as provided by law.

(d) LENGTH OF SESSIONS. A regular session of the legislature shall not exceed sixty consecutive days, and a special session shall not exceed twenty consecutive days, unless extended beyond such limit by a three-fifths vote of each house.

During such an extension no new business may be taken up in either house without the consent of two-thirds of its membership.

(e) ADJOURNMENT. Neither house shall adjourn for more than seventy-two consecutive hours except pursuant to concurrent resolution.

(f) ADJOURNMENT BY GOVERNOR. If, during any regular or special session, the two houses cannot agree upon a time for adjournment, the governor may adjourn the session sine die or to

any date within the period authorized for such session; provided that, at least twenty-four hours before adjourning the session, and while neither house is in recess, each house shall be given formal written notice of the governor's intention to do so, and agreement reached within that period by both houses on a time for adjournment shall prevail.

SECTION 4. Quorum and procedure.--

(a) A majority of the membership of each house shall constitute a quorum, but a smaller number may adjourn from day to day and compel the presence of absent members in such manner and under such penalties as it may prescribe. Each house shall determine its rules of procedure.

(b) Sessions of each house shall be public; except sessions of the senate when considering appointment to or removal from public office may be closed.

(c) Each house shall keep and publish a journal of its proceedings; and upon the request of five members present, the vote of each member voting on any question shall be entered on the journal. In any legislative committee or subcommittee, the vote of each member voting on the final passage of any legislation pending before the committee, and upon the request of any two members of the committee or subcommittee, the vote of each member on any other question, shall be recorded.

(d) Each house may punish a member for contempt or disorderly conduct and, by a two-thirds vote of its membership, may expel a member.

(e) The rules of procedure of each house shall provide that all legislative committee and subcommittee meetings of each house, and joint conference committee meetings, shall be open and

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noticed to the public. The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public. All open meetings shall be subject to order and decorum. This section shall be implemented and defined by the rules of each house, and such rules shall control admission to the floor of each legislative chamber and may, where reasonably necessary for security purposes or to protect a witness appearing before a committee, provide for the closure of committee meetings. Each house shall be the sole judge for the interpretation, implementation, and enforcement of this section.

SECTION 5. Investigations; witnesses.--Each house, when in session, may compel attendance of witnesses and production of documents and other evidence upon any matter under investigation before it or any of its committees, and may punish by fine not exceeding one thousand dollars or imprisonment not exceeding ninety days, or both, any person not a member who has been guilty of disorderly or contemptuous conduct in its presence or has refused to obey its lawful summons or to answer lawful questions.

Such powers, except the power to punish, may be conferred by law upon committees when the legislature is not in session.

Punishment of contempt of an interim legislative committee shall be by judicial proceedings as prescribed by law.

SECTION 6. Laws.--Every law shall embrace but one subject

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552 and matter properly connected therewith, and the subject shall be
553 briefly expressed in the title. No law shall be revised or
554 amended by reference to its title only. Laws to revise or amend
555 shall set out in full the revised or amended act, section,
556 subsection, or paragraph of a subsection. The enacting clause of
557 every law shall read: "Be It Enacted by the Legislature of the
558 State of Florida: ."-

559 SECTION 7. Passage of bills.--Any bill may originate in
560 either house and after passage in one may be amended in the
561 other. It shall be read in each house on three separate days,
562 unless this rule is waived by two-thirds vote; provided the
563 publication of its title in the journal of a house shall satisfy
564 the requirement for the first reading in that house. On each
565 reading, it shall be read by title only, unless one-third of the
566 members present desire it read in full. On final passage, the
567 vote of each member voting shall be entered on the journal.
568 Passage of a bill shall require a majority vote in each house.
569 Each bill and joint resolution passed in both houses shall be
570 signed by the presiding officers of the respective houses and by
571 the secretary of the senate and the clerk of the house of
572 representatives during the session or as soon as practicable
573 after its adjournment sine die.

574 SECTION 8. Executive approval and veto.--

575 (a) Every bill passed by the legislature shall be presented
576 to the governor for approval and shall become a law if the
577 governor approves and signs it, or fails to veto it within seven
578 consecutive days after presentation. If during that period or on
579 the seventh day the legislature adjourns sine die or takes a
580 recess of more than thirty days, the governor shall have fifteen

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consecutive days from the date of presentation to act on the bill. In all cases except general appropriation bills, the veto shall extend to the entire bill. The governor may veto any specific appropriation in a general appropriation bill, but may not veto any qualification or restriction without also vetoing the appropriation to which it relates.

(b) When a bill or any specific appropriation of a general appropriation bill has been vetoed, the governor shall transmit signed objections thereto to the house in which the bill originated if in session. If that house is not in session, the governor shall file them with the custodian of state records, who shall lay them before that house at its next regular or special session, whichever occurs first, and they shall be entered on its journal. If the originating house votes to re-enact a vetoed measure, whether in a regular or special session, and the other house does not consider or fails to re-enact the vetoed measure, no further consideration by either house at any subsequent session may be taken. If a vetoed measure is presented at a special session and the originating house does not consider it, the measure will be available for consideration at any intervening special session and until the end of the next regular session.

(c) If each house shall, by a two-thirds vote, re-enact the bill or reinstate the vetoed specific appropriation of a general appropriation bill, the vote of each member voting shall be entered on the respective journals, and the bill shall become law or the specific appropriation reinstated, the veto notwithstanding.

SECTION 9. Effective date of laws.--Each law shall take

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effect on the sixtieth day after adjournment sine die of the session of the legislature in which enacted or as otherwise provided therein. If the law is passed over the veto of the governor, it shall take effect on the sixtieth day after adjournment sine die of the session in which the veto is overridden, on a later date fixed in the law, or on a date fixed by resolution passed by both houses of the legislature.

SECTION 10. Special laws.--No special law shall be passed unless notice of intention to seek enactment thereof has been published in the manner provided by general law. Such notice shall not be necessary when the law, except the provision for referendum, is conditioned to become effective only upon approval by vote of the electors of the area affected.

SECTION 11. Prohibited special laws.--

(a) There shall be no special law or general law of local application pertaining to:

(1) Election, jurisdiction, or duties of officers, except officers of municipalities, chartered counties, special districts, or local governmental agencies;

(2) Assessment or collection of taxes for state or county purposes, including extension of time therefor, relief of tax officers from due performance of their duties, and relief of their sureties from liability;

(3) Rules of evidence in any court;

(4) Punishment for crime;

(5) Petit juries, including compensation of jurors, except establishment of jury commissions;

(6) Change of civil or criminal venue;

(7) Conditions precedent to bringing any civil or criminal

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639 proceedings, or limitations of time therefor;
 640 (8) Refund of money legally paid or remission of fines,
 641 penalties, or forfeitures;
 642 (9) Creation, enforcement, extension, or impairment of
 643 liens based on private contracts, or fixing of interest rates on
 644 private contracts;
 645 (10) Disposal of public property, including any interest
 646 therein, for private purposes;
 647 (11) Vacation of roads;
 648 (12) Private incorporation or grant of privilege to a
 649 private corporation;
 650 (13) Effectuation of invalid deeds, wills, or other
 651 instruments, or change in the law of descent;
 652 (14) Change of name of any person;
 653 (15) Divorce;
 654 (16) Legitimation or adoption of persons;
 655 (17) Relief of minors from legal disabilities;
 656 (18) Transfer of any property interest of persons under
 657 legal disabilities or of estates of decedents;
 658 (19) Hunting or freshwater ~~fresh-water~~ fishing;
 659 (20) Regulation of occupations which are regulated by a
 660 state agency; or
 661 (21) Any subject when prohibited by general law passed by a
 662 three-fifths vote of the membership of each house. Such law may
 663 be amended or repealed by like vote.
 664 (b) In the enactment of general laws on other subjects,
 665 political subdivisions or other governmental entities may be
 666 classified only on a basis reasonably related to the subject of
 667 the law.

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SECTION 12. Appropriation bills.--Laws making appropriations for salaries of public officers and other current expenses of the state shall contain provisions on no other subject.

SECTION 13. Term of office.--No office shall be created the term of which shall exceed four years except as provided herein.

SECTION 14. Civil service system.--By law there shall be created a civil service system for state employees, except those expressly exempted, and there may be created civil service systems and boards for county, district, or municipal employees and for such offices thereof as are not elected or appointed by the governor, and there may be authorized such boards as are necessary to prescribe the qualifications, method of selection, and tenure of such employees and officers.

SECTION 15. Terms and qualifications of legislators.--

(a) SENATORS. Senators shall be elected for terms of four years, those from odd-numbered districts in the years the numbers of which are multiples of four and those from even-numbered districts in even-numbered years the numbers of which are not multiples of four; except, at the election next following a reapportionment, some senators shall be elected for terms of two years when necessary to maintain staggered terms.

(b) REPRESENTATIVES. Members of the house of representatives shall be elected for terms of two years in each even-numbered year.

(c) QUALIFICATIONS. Each legislator shall be at least twenty-one years of age, an elector and resident of the district from which elected and shall have resided in the state for a period of two years prior to election.

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(d) ASSUMING OFFICE; VACANCIES. Members of the legislature shall take office upon election. Vacancies in a legislative office shall be filled only by election as provided by law.

SECTION 16. Legislative apportionment.--

(a) SENATORIAL AND REPRESENTATIVE DISTRICTS. The legislature at its regular session in the second year following each decennial census, by joint resolution, shall apportion the state in accordance with the constitution of the state and of the United States into not less than thirty nor more than forty consecutively numbered senatorial districts of either contiguous, overlapping, or identical territory, and into not less than eighty nor more than one hundred twenty consecutively numbered representative districts of either contiguous, overlapping, or identical territory. Should that session adjourn without adopting such joint resolution, the governor by proclamation shall reconvene the legislature within thirty days in special apportionment session which shall not exceed thirty consecutive days, during which no other business shall be transacted, and it shall be the mandatory duty of the legislature to adopt a joint resolution of apportionment.

(b) FAILURE OF LEGISLATURE TO APPORTION; JUDICIAL REAPPORTIONMENT. In the event a special apportionment session of the legislature finally adjourns without adopting a joint resolution of apportionment, the attorney general shall, within five days, petition the supreme court of the state to make such apportionment. No later than the sixtieth day after the filing of such petition, the supreme court shall file with the custodian of state records an order making such apportionment.

(c) JUDICIAL REVIEW OF APPORTIONMENT. Within fifteen days

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726 after the passage of the joint resolution of apportionment, the
727 attorney general shall petition the supreme court of the state
728 for a declaratory judgment determining the validity of the
729 apportionment. The supreme court, in accordance with its rules,
730 shall permit adversary interests to present their views and,
731 within thirty days from the filing of the petition, shall enter
732 its judgment.

733 (d) EFFECT OF JUDGMENT IN APPORTIONMENT; EXTRAORDINARY
734 APPORTIONMENT SESSION. A judgment of the supreme court of the
735 state determining the apportionment to be valid shall be binding
736 upon all the citizens of the state. Should the supreme court
737 determine that the apportionment made by the legislature is
738 invalid, the governor by proclamation shall reconvene the
739 legislature within five days thereafter in an extraordinary
740 apportionment session which shall not exceed fifteen days, during
741 which the legislature shall adopt a joint resolution of
742 apportionment conforming to the judgment of the supreme court.

743 (e) EXTRAORDINARY APPORTIONMENT SESSION; REVIEW OF
744 APPORTIONMENT. Within fifteen days after the adjournment of an
745 extraordinary apportionment session, the attorney general shall
746 file a petition in the supreme court of the state setting forth
747 the apportionment resolution adopted by the legislature, or if
748 none has been adopted reporting that fact to the court.
749 Consideration of the validity of a joint resolution of
750 apportionment shall be had as provided for in cases of such joint
751 resolution adopted at a regular or special apportionment session.

752 (f) JUDICIAL REAPPORTIONMENT. Should an extraordinary
753 apportionment session fail to adopt a resolution of apportionment
754 or should the supreme court determine that the apportionment made

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is invalid, the court shall, not later than sixty days after receiving the petition of the attorney general, file with the custodian of state records an order making such apportionment.

SECTION 17. Impeachment.--

(a) The governor, lieutenant governor, members of the cabinet, justices of the supreme court, judges of district courts of appeal, judges of circuit courts, and judges of county courts shall be liable to impeachment for misdemeanor in office. The house of representatives by two-thirds vote shall have the power to impeach an officer. The speaker of the house of representatives shall have power at any time to appoint a committee to investigate charges against any officer subject to impeachment.

(b) An officer impeached by the house of representatives shall be disqualified from performing any official duties until acquitted by the senate, and, unless impeached, the governor may by appointment fill the office until completion of the trial.

(c) All impeachments by the house of representatives shall be tried by the senate. The chief justice of the supreme court, or another justice designated by the chief justice, shall preside at the trial, except in a trial of the chief justice, in which case the governor shall preside. The senate shall determine the time for the trial of any impeachment and may sit for the trial whether the house of representatives be in session or not. The time fixed for trial shall not be more than six months after the impeachment. During an impeachment trial senators shall be upon their oath or affirmation. No officer shall be convicted without the concurrence of two-thirds of the members of the senate present. Judgment of conviction in cases of impeachment shall

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remove the offender from office and, in the discretion of the senate, may include disqualification to hold any office of honor, trust, or profit. Conviction or acquittal shall not affect the civil or criminal responsibility of the officer.

SECTION 18. Conflict of Interest.--A code of ethics for all state employees and nonjudicial officers prohibiting conflict between public duty and private interests shall be prescribed by law.

SECTION 19. State Budgeting, Planning and Appropriations Processes.--

(a) ANNUAL BUDGETING. ~~Effective July 1, 1994,~~ General law shall prescribe the adoption of annual state budgetary and planning processes and require that detail reflecting the annualized costs of the state budget and reflecting the nonrecurring costs of the budget requests shall accompany state department and agency legislative budget requests, the governor's recommended budget, and appropriation bills. For purposes of this subsection, the terms "department" and "agency" shall include the judicial branch.

(b) APPROPRIATION BILLS FORMAT. Separate sections within the general appropriation bill shall be used for each major program area of the state budget; major program areas shall include: education enhancement "lottery" trust fund items; education (all other funds); human services; criminal justice and corrections; natural resources, environment, growth management, and transportation; general government; and judicial branch. Each major program area shall include an itemization of expenditures for: state operations; state capital outlay; aid to local governments and nonprofit organizations operations; aid to

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813 local governments and nonprofit organizations capital outlay;
814 federal funds and the associated state matching funds; spending
815 authorizations for operations; and spending authorizations for
816 capital outlay. Additionally, appropriation bills passed by the
817 legislature shall include an itemization of specific
818 appropriations that exceed one million dollars (\$1,000,000.00) in
819 1992 dollars. For purposes of this subsection, "specific
820 appropriation," "itemization," and "major program area" shall be
821 defined by law. This itemization threshold shall be adjusted by
822 general law every four years to reflect the rate of inflation or
823 deflation as indicated in the Consumer Price Index for All Urban
824 Consumers, U.S. City Average, All Items, or successor reports as
825 reported by the United States Department of Labor, Bureau of
826 Labor Statistics or its successor. Substantive bills containing
827 appropriations shall also be subject to the itemization
828 requirement mandated under this provision and shall be subject to
829 the governor's specific appropriation veto power described in
830 Article III, Section 8. ~~This subsection shall be effective July~~
831 ~~1, 1994.~~

832 (c) APPROPRIATIONS REVIEW PROCESS. ~~Effective July 1, 1993,~~
833 General law shall prescribe requirements for each department and
834 agency of state government to submit a planning document and
835 supporting budget request for review by the appropriations
836 committees of both houses of the legislature. The review shall
837 include a comparison of the major issues in the planning document
838 and budget requests to those major issues included in the
839 governor's recommended budget. For purposes of this subsection,
840 the terms department and agency shall include the judicial
841 branch.

(d) SEVENTY-TWO HOUR PUBLIC REVIEW PERIOD. All general appropriation bills shall be furnished to each member of the legislature, each member of the cabinet, the governor, and the chief justice of the supreme court at least seventy-two hours before final passage by either house of the legislature of the bill in the form that will be presented to the governor.

(e) FINAL BUDGET REPORT. ~~Effective November 4, 1992,~~ A final budget report shall be prepared as prescribed by general law. The final budget report shall be produced no later than the 90th day after the beginning of the fiscal year, and copies of the report shall be furnished to each member of the legislature, the head of each department and agency of the state, the auditor general, and the chief justice of the supreme court.

(f) TRUST FUNDS.

(1) No trust fund of the State of Florida or other public body may be created by law without a three-fifths (3/5) vote of the membership of each house of the legislature in a separate bill for that purpose only.

(2) State trust funds in existence before the effective date of this subsection shall terminate not more than four years after the effective date of this subsection. State trust funds created after the effective date of this subsection shall terminate not more than four years after the effective date of the act authorizing the creation of the trust fund. By law the legislature may set a shorter time period for which any trust fund is authorized.

(3) Trust funds required by federal programs or mandates; trust funds established for bond covenants, indentures, or resolutions, whose revenues are legally pledged by the state or

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871 public body to meet debt service or other financial requirements
872 of any debt obligations of the state or any public body; the
873 state transportation trust fund; the trust fund containing the
874 net annual proceeds from the Florida Education Lotteries; the
875 Florida retirement trust fund; trust funds for institutions under
876 the management of the Board of Regents, where such trust funds
877 are for auxiliary enterprises and contracts, grants, and
878 donations, as those terms are defined by general law; trust funds
879 that serve as clearing funds or accounts for the chief financial
880 officer or state agencies; trust funds that account for assets
881 held by the state in a trustee capacity as an agent or fiduciary
882 for individuals, private organizations, or other governmental
883 units; and other trust funds authorized by this Constitution, are
884 not subject to the requirements set forth in paragraph (2) of
885 this subsection.

886 (4) All cash balances and income of any trust funds
887 abolished under this subsection shall be deposited into the
888 general revenue fund.

889 ~~(5) The provisions of this subsection shall be effective~~
890 ~~November 4, 1992.~~

891 (g) ~~BUDGET STABILIZATION FUND. Beginning with the 1994-~~
892 ~~1995 fiscal year, at least 1% of an amount equal to the last~~
893 ~~completed fiscal year's net revenue collections for the general~~
894 ~~revenue fund shall be retained in a budget stabilization fund.~~
895 ~~The budget stabilization fund shall be increased to at least 2%~~
896 ~~of said amount for the 1995-1996 fiscal year, at least 3% of said~~
897 ~~amount for the 1996-1997 fiscal year, at least 4% of said amount~~
898 ~~for the 1997-1998 fiscal year, and at least 5% of said amount for~~
899 ~~the 1998-1999 fiscal year. Subject to the provisions of this~~

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subsection, the budget stabilization fund shall be maintained at an amount equal to at least five percent 5% of the last completed fiscal year's net revenue collections for the general revenue fund. The budget stabilization fund's principal balance shall not exceed an amount equal to ten percent 10% of the last completed fiscal year's net revenue collections for the general revenue fund. The legislature shall provide criteria for withdrawing funds from the budget stabilization fund in a separate bill for that purpose only and only for the purpose of covering revenue shortfalls of the general revenue fund or for the purpose of providing funding for an emergency, as defined by general law. General law shall provide for the restoration of this fund. The budget stabilization fund shall be comprised of funds not otherwise obligated or committed for any purpose.

(h) STATE PLANNING DOCUMENT AND DEPARTMENT AND AGENCY PLANNING DOCUMENT PROCESSES. The governor shall recommend to the legislature biennially any revisions to the state planning document, as defined by law. General law shall require a biennial review and revision of the state planning document, shall require the governor to report to the legislature on the progress in achieving the state planning document's goals, and shall require all departments and agencies of state government to develop planning documents consistent with the state planning document. The state planning document and department and agency planning documents shall remain subject to review and revision by the legislature. The department and agency planning documents shall include a prioritized listing of planned expenditures for review and possible reduction in the event of revenue shortfalls, as defined by general law. To ensure productivity and efficiency in

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the executive, legislative, and judicial branches, a quality management and accountability program shall be implemented by general law. For the purposes of this subsection, the terms "department" and "agency" shall include the judicial branch. ~~This subsection shall be effective July 1, 1993.~~

ARTICLE IV

EXECUTIVE

SECTION 1. Governor.--

(a) The supreme executive power shall be vested in a governor, who shall be commander-in-chief of all military forces of the state not in active service of the United States. The governor shall take care that the laws be faithfully executed, commission all officers of the state and counties, and transact all necessary business with the officers of government. The governor may require information in writing from all executive or administrative state, county, or municipal officers upon any subject relating to the duties of their respective offices. The governor shall be the chief administrative officer of the state responsible for the planning and budgeting for the state.

(b) The governor may initiate judicial proceedings in the name of the state against any executive or administrative state, county, or municipal officer to enforce compliance with any duty or restrain any unauthorized act.

(c) The governor may request in writing the opinion of the justices of the supreme court as to the interpretation of any portion of this constitution upon any question affecting the governor's executive powers and duties. The justices shall, subject to their rules of procedure, permit interested persons to

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be heard on the questions presented and shall render their written opinion not earlier than ten days from the filing and docketing of the request, unless in their judgment the delay would cause public injury.

(d) The governor shall have power to call out the militia to preserve the public peace, execute the laws of the state, suppress insurrection, or repel invasion.

(e) The governor shall by message at least once in each regular session inform the legislature concerning the condition of the state, propose such reorganization of the executive department as will promote efficiency and economy, and recommend measures in the public interest.

(f) When not otherwise provided for in this constitution, the governor shall fill by appointment any vacancy in a state or county office for the remainder of the term of an appointive office, and for the remainder of the term of an elective office if less than twenty-eight months, otherwise until the first Tuesday after the first Monday following the next general election.

SECTION 2. Lieutenant governor.--There shall be a lieutenant governor, who shall perform such duties pertaining to the office of governor as shall be assigned by the governor, except when otherwise provided by law, and such other duties as may be prescribed by law.

SECTION 3. Succession to office of governor; acting governor.--

(a) Upon vacancy in the office of governor, the lieutenant governor shall become governor. Further succession to the office of governor shall be prescribed by law. A successor shall serve

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for the remainder of the term.

(b) Upon impeachment of the governor and until completion of trial thereof, or during the governor's physical or mental incapacity, the lieutenant governor shall act as governor. Further succession as acting governor shall be prescribed by law. Incapacity to serve as governor may be determined by the supreme court upon due notice after docketing of a written suggestion thereof by three cabinet members, and in such case restoration of capacity shall be similarly determined after docketing of written suggestion thereof by the governor, the legislature, or three cabinet members. Incapacity to serve as governor may also be established by certificate filed with the custodian of state records by the governor declaring incapacity for physical reasons to serve as governor, and in such case restoration of capacity shall be similarly established.

SECTION 4. Cabinet.--

(a) There shall be a cabinet composed of an attorney general, a chief financial officer, and a commissioner of agriculture. In addition to the powers and duties specified herein, they shall exercise such powers and perform such duties as may be prescribed by law. In the event of a tie vote of the governor and cabinet, the side on which the governor voted shall be deemed to prevail.

(b) The attorney general shall be the chief state legal officer. There is created in the office of the attorney general the position of statewide prosecutor. The statewide prosecutor shall have concurrent jurisdiction with the state attorneys to prosecute violations of criminal laws occurring or having occurred, in two or more judicial circuits as part of a related

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1016 transaction, or when any such offense is affecting or has
1017 affected two or more judicial circuits as provided by general
1018 law. The statewide prosecutor shall be appointed by the attorney
1019 general from not less than three persons nominated by the
1020 judicial nominating commission for the supreme court, or as
1021 otherwise provided by general law.

1022 (c) The chief financial officer shall serve as the chief
1023 fiscal officer of the state, and shall settle and approve
1024 accounts against the state, and shall keep all state funds and
1025 securities.

1026 (d) The commissioner of agriculture shall have supervision
1027 of matters pertaining to agriculture except as otherwise provided
1028 by law.

1029 (e) The governor as chair, the chief financial officer, and
1030 the attorney general shall constitute the state board of
1031 administration, which shall succeed to all the power, control,
1032 and authority of the state board of administration established
1033 pursuant to Article IX, Section 16 of the Constitution of 1885,
1034 and which shall continue as a body at least for the life of
1035 Article XII, Section 9(c).

1036 (f) The governor as chair, the chief financial officer, the
1037 attorney general, and the commissioner of agriculture shall
1038 constitute the trustees of the internal improvement trust fund
1039 and the land acquisition trust fund as provided by law.

1040 (g) The governor as chair, the chief financial officer, the
1041 attorney general, and the commissioner of agriculture shall
1042 constitute the agency head of the Department of Law Enforcement.

1043 SECTION 5. Election of governor, lieutenant governor, and
1044 cabinet members; qualifications; terms.--

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(a) At a state-wide general election in each calendar year the number of which is even but not a multiple of four, the electors shall choose a governor and a lieutenant governor and members of the cabinet each for a term of four years beginning on the first Tuesday after the first Monday in January of the succeeding year. In primary elections, candidates for the office of governor may choose to run without a lieutenant governor candidate. In the general election, all candidates for the offices of governor and lieutenant governor shall form joint candidacies in a manner prescribed by law so that each voter shall cast a single vote for a candidate for governor and a candidate for lieutenant governor running together.

(b) When elected, the governor, lieutenant governor, and each cabinet member must be an elector not less than thirty years of age who has resided in the state for the preceding seven years. The attorney general must have been a member of the bar of Florida for the preceding five years. No person who has, or but for resignation would have, served as governor or acting governor for more than six years in two consecutive terms shall be elected governor for the succeeding term.

SECTION 6. Executive departments.--All functions of the executive branch of state government shall be allotted among not more than twenty-five departments, exclusive of those specifically provided for or authorized in this constitution. The administration of each department, unless otherwise provided in this constitution, shall be placed by law under the direct supervision of the governor, the lieutenant governor, the governor and cabinet, a cabinet member, or an officer or board appointed by and serving at the pleasure of the governor, except:

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(a) When provided by law, confirmation by the senate or the approval of three members of the cabinet shall be required for appointment to or removal from any designated statutory office.

(b) Boards authorized to grant and revoke licenses to engage in regulated occupations shall be assigned to appropriate departments and their members appointed for fixed terms, subject to removal only for cause.

SECTION 7. Suspensions; filling office during suspensions.-

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(a) By executive order stating the grounds and filed with the custodian of state records, the governor may suspend from office any state officer not subject to impeachment, any officer of the militia not in the active service of the United States, or any county officer, for malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform official duties, or commission of a felony, and may fill the office by appointment for the period of suspension. The suspended officer may at any time before removal be reinstated by the governor.

(b) The senate may, in proceedings prescribed by law, remove from office or reinstate the suspended official and for such purpose the senate may be convened in special session by its president or by a majority of its membership.

(c) By order of the governor, any elected municipal officer indicted for a crime may be suspended from office until acquitted and the office filled by appointment for the period of suspension, not to extend beyond the term, unless these powers are vested elsewhere by law or the municipal charter.

SECTION 8. Clemency.--

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1103 (a) Except in cases of treason and in cases where
1104 impeachment results in conviction, the governor may, by executive
1105 order filed with the custodian of state records, suspend
1106 collection of fines and forfeitures, grant reprieves not
1107 exceeding sixty days and, with the approval of two members of the
1108 cabinet, grant full or conditional pardons, restore civil rights,
1109 commute punishment, and remit fines and forfeitures for offenses.

1110 (b) In cases of treason, the governor may grant reprieves
1111 until adjournment of the regular session of the legislature
1112 convening next after the conviction, at which session the
1113 legislature may grant a pardon or further reprieve; otherwise the
1114 sentence shall be executed.

1115 (c) There may be created by law a parole and probation
1116 commission with power to supervise persons on probation and to
1117 grant paroles or conditional releases to persons under sentences
1118 for crime. The qualifications, method of selection and terms,
1119 not to exceed six years, of members of the commission shall be
1120 prescribed by law.

1121 SECTION 9. Fish and wildlife conservation commission.--
1122 There shall be a fish and wildlife conservation commission,
1123 composed of seven members appointed by the governor, subject to
1124 confirmation by the senate for staggered terms of five years. The
1125 commission shall exercise the regulatory and executive powers of
1126 the state with respect to wild animal life and freshwater ~~fresh~~
1127 ~~water~~ aquatic life, and shall also exercise regulatory and
1128 executive powers of the state with respect to marine life, except
1129 that all license fees for taking wild animal life, freshwater
1130 ~~fresh-water~~ aquatic life, and marine life and penalties for
1131 violating regulations of the commission shall be prescribed by

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1132 general law. The commission shall establish procedures to ensure
 1133 adequate due process in the exercise of its regulatory and
 1134 executive functions. The legislature may enact laws in aid of the
 1135 commission, not inconsistent with this section, except that there
 1136 shall be no special law or general law of local application
 1137 pertaining to hunting or fishing. The commission's exercise of
 1138 executive powers in the area of planning, budgeting, personnel
 1139 management, and purchasing shall be as provided by law. Revenue
 1140 derived from license fees for the taking of wild animal life and
 1141 freshwater ~~fresh-water~~ aquatic life shall be appropriated to the
 1142 commission by the legislature for the purposes of management,
 1143 protection, and conservation of wild animal life and freshwater
 1144 ~~fresh-water~~ aquatic life. Revenue derived from license fees
 1145 relating to marine life shall be appropriated by the legislature
 1146 for the purposes of management, protection, and conservation of
 1147 marine life as provided by law. The commission shall not be a
 1148 unit of any other state agency and shall have its own staff,
 1149 which includes management, research, and enforcement. Unless
 1150 provided by general law, the commission shall have no authority
 1151 to regulate matters relating to air and water pollution.

1152 SECTION 10. Attorney General.--The attorney general shall,
 1153 as directed by general law, request the opinion of the justices
 1154 of the supreme court as to the validity of any initiative
 1155 petition circulated pursuant to Section 3 of Article XI. The
 1156 justices shall, subject to their rules of procedure, permit
 1157 interested persons to be heard on the questions presented and
 1158 shall render their written opinion no later than April 1 of the
 1159 year in which the initiative is to be submitted to the voters
 1160 pursuant to Section 5 of Article XI.

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SECTION 11. Department of Veterans Affairs.--The legislature, by general law, may provide for the establishment of the Department of Veterans Affairs.

SECTION 12. Department of Elderly Affairs.--The legislature may create a Department of Elderly Affairs and prescribe its duties. The provisions governing the administration of the department must comply with Section 6 of Article IV of the State Constitution.

SECTION 13. Revenue Shortfalls.--In the event of revenue shortfalls, as defined by general law, the governor and cabinet may establish all necessary reductions in the state budget in order to comply with the provisions of Article VII, Section 1(d).

The governor and cabinet shall implement all necessary reductions for the executive budget, the chief justice of the supreme court shall implement all necessary reductions for the judicial budget, and the speaker of the house of representatives and the president of the senate shall implement all necessary reductions for the legislative budget. Budget reductions pursuant to this section shall be consistent with the provisions of Article III, Section 19(h).

ARTICLE V

JUDICIARY

SECTION 1. Courts.--The judicial power shall be vested in a supreme court, district courts of appeal, circuit courts, and county courts. No other courts may be established by the state, any political subdivision, or any municipality. The legislature shall, by general law, divide the state into appellate court districts and judicial circuits following county lines.

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1190 Commissions established by law, or administrative officers or
 1191 bodies, may be granted quasi-judicial power in matters connected
 1192 with the functions of their offices. The legislature may
 1193 establish, by general law, a civil traffic hearing officer system
 1194 for the purpose of hearing civil traffic infractions. The
 1195 legislature may, by general law, authorize a military court-
 1196 martial to be conducted by military judges of the Florida
 1197 National Guard, with direct appeal of a decision to the District
 1198 Court of Appeal, First District.

1199 SECTION 2. Administration; practice and procedure.--

1200 (a) The supreme court shall adopt rules for the practice
 1201 and procedure in all courts including the time for seeking
 1202 appellate review, the administrative supervision of all courts,
 1203 the transfer to the court having jurisdiction of any proceeding
 1204 when the jurisdiction of another court has been improvidently
 1205 invoked, and a requirement that no cause shall be dismissed
 1206 because an improper remedy has been sought. The supreme court
 1207 shall adopt rules to allow the court and the district courts of
 1208 appeal to submit questions relating to military law to the
 1209 federal Court of Appeals for the Armed Forces for an advisory
 1210 opinion. Rules of court may be repealed by general law enacted
 1211 by two-thirds vote of the membership of each house of the
 1212 legislature.

1213 (b) The chief justice of the supreme court shall be chosen
 1214 by a majority of the members of the court; shall be the chief
 1215 administrative officer of the judicial system; and shall have the
 1216 power to assign justices or judges, including consenting retired
 1217 justices or judges, to temporary duty in any court for which the
 1218 judge is qualified and to delegate to a chief judge of a judicial

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circuit the power to assign judges for duty in that circuit.

(c) A chief judge for each district court of appeal shall be chosen by a majority of the judges thereof or, if there is no majority, by the chief justice. The chief judge shall be responsible for the administrative supervision of the court.

(d) A chief judge in each circuit shall be chosen from among the circuit judges as provided by supreme court rule. The chief judge shall be responsible for the administrative supervision of the circuit courts and county courts in his or her circuit.

SECTION 3. Supreme court.--

(a) ORGANIZATION.--The supreme court shall consist of seven justices. Of the seven justices, each appellate district shall have at least one justice elected or appointed from the district to the supreme court who is a resident of the district at the time of the original appointment or election. Five justices shall constitute a quorum. The concurrence of four justices shall be necessary to a decision. When recusals for cause would prohibit the court from convening because of the requirements of this section, judges assigned to temporary duty may be substituted for justices.

(b) JURISDICTION.--The supreme court:

(1) Shall hear appeals from final judgments of trial courts imposing the death penalty and from decisions of district courts of appeal declaring invalid a state statute or a provision of the state constitution.

(2) When provided by general law, shall hear appeals from final judgments entered in proceedings for the validation of bonds or certificates of indebtedness and shall review action of

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1248 statewide agencies relating to rates or service of utilities
1249 providing electric, gas, or telephone service.

1250 (3) May review any decision of a district court of appeal
1251 that expressly declares valid a state statute, or that expressly
1252 construes a provision of the state or federal constitution, or
1253 that expressly affects a class of constitutional or state
1254 officers, or that expressly and directly conflicts with a
1255 decision of another district court of appeal or of the supreme
1256 court on the same question of law.

1257 (4) May review any decision of a district court of appeal
1258 that passes upon a question certified by it to be of great public
1259 importance, or that is certified by it to be in direct conflict
1260 with a decision of another district court of appeal.

1261 (5) May review any order or judgment of a trial court
1262 certified by the district court of appeal, in which an appeal is
1263 pending, to be of great public importance, or to have a great
1264 effect on the proper administration of justice throughout the
1265 state, and certified to require immediate resolution by the
1266 supreme court.

1267 (6) May review a question of law certified by the Supreme
1268 Court of the United States or a United States Court of Appeals
1269 which is determinative of the cause and for which there is no
1270 controlling precedent of the supreme court of Florida.

1271 (7) May issue writs of prohibition to courts and all writs
1272 necessary to the complete exercise of its jurisdiction.

1273 (8) May issue writs of mandamus and quo warranto to state
1274 officers and state agencies.

1275 (9) May, or any justice may, issue writs of habeas corpus
1276 returnable before the supreme court or any justice, a district

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court of appeal or any judge thereof, or any circuit judge.

(10) Shall, when requested by the attorney general pursuant to the provisions of Section 10 of Article IV, render an advisory opinion of the justices, addressing issues as provided by general law.

(c) CLERK AND MARSHAL.--The supreme court shall appoint a clerk and a marshal who shall hold office at ~~during~~ the pleasure of the court and perform such duties as the court directs. Their compensation shall be fixed by general law. The marshal shall have the power to execute the process of the court throughout the state, and in any county may deputize the sheriff or a deputy sheriff for such purpose.

SECTION 4. District courts of appeal.--

(a) ORGANIZATION.--There shall be a district court of appeal serving each appellate district. Each district court of appeal shall consist of at least three judges. Three judges shall consider each case and the concurrence of two shall be necessary to a decision.

(b) JURISDICTION.--

(1) District courts of appeal shall have jurisdiction to hear appeals, that may be taken as a matter of right, from final judgments or orders of trial courts, including those entered on review of administrative action, not directly appealable to the supreme court or a circuit court. They may review interlocutory orders in such cases to the extent provided by rules adopted by the supreme court.

(2) District courts of appeal shall have the power of direct review of administrative action, as prescribed by general law.

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1306 (3) A district court of appeal or any judge thereof may
1307 issue writs of habeas corpus returnable before the court or any
1308 judge thereof or before any circuit judge within the territorial
1309 jurisdiction of the court. A district court of appeal may issue
1310 writs of mandamus, certiorari, prohibition, quo warranto, and
1311 other writs necessary to the complete exercise of its
1312 jurisdiction. To the extent necessary to dispose of all issues
1313 in a cause properly before it, a district court of appeal may
1314 exercise any of the appellate jurisdiction of the circuit courts.

1315 (c) CLERKS AND MARSHALS.--Each district court of appeal
1316 shall appoint a clerk and a marshal who shall hold office during
1317 the pleasure of the court and perform such duties as the court
1318 directs. Their compensation shall be fixed by general law. The
1319 marshal shall have the power to execute the process of the court
1320 throughout the territorial jurisdiction of the court, and in any
1321 county may deputize the sheriff or a deputy sheriff for such
1322 purpose.

1323 SECTION 5. Circuit courts.--

1324 (a) ORGANIZATION.--There shall be a circuit court serving
1325 each judicial circuit.

1326 (b) JURISDICTION.--The circuit courts shall have original
1327 jurisdiction not vested in the county courts, and jurisdiction of
1328 appeals when provided by general law. They shall have the power
1329 to issue writs of mandamus, quo warranto, certiorari,
1330 prohibition, and habeas corpus, and all writs necessary or proper
1331 to the complete exercise of their jurisdiction. Jurisdiction of
1332 the circuit court shall be uniform throughout the state. They
1333 shall have the power of direct review of administrative action
1334 prescribed by general law.

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SECTION 6. County courts.--

(a) ORGANIZATION.--There shall be a county court in each county. There shall be one or more judges for each county court as prescribed by general law.

(b) JURISDICTION.--The county courts shall exercise the jurisdiction prescribed by general law. Such jurisdiction shall be uniform throughout the state.

SECTION 7. Specialized divisions.--All courts except the supreme court may sit in divisions as may be established by general law. A circuit or county court may hold civil and criminal trials and hearings in any place within the territorial jurisdiction of the court as designated by the chief judge of the circuit.

SECTION 8. Eligibility.--No person shall be eligible for office of justice or judge of any court unless the person is an elector of the state and resides in the territorial jurisdiction of the court. No justice or judge shall serve after attaining the age of seventy years except upon temporary assignment or to complete a term, one-half of which has been served. No person is eligible for the office of justice of the supreme court or judge of a district court of appeal unless the person is, and has been for the preceding ten years, a member of the bar of Florida. No person is eligible for the office of circuit judge unless the person is, and has been for the preceding five years, a member of the bar of Florida. Unless otherwise provided by general law, no person is eligible for the office of county court judge unless the person is, and has been for the preceding five years, a member of the bar of Florida. Unless otherwise provided by general law, a person shall be eligible for election or

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1364 appointment to the office of county court judge in a county
1365 having a population of 40,000 or less if the person is a member
1366 in good standing of the bar of Florida.

1367 SECTION 9. Determination of number of judges.--The supreme
1368 court shall establish by rule uniform criteria for the
1369 determination of the need for additional judges except supreme
1370 court justices, the necessity for decreasing the number of judges
1371 and for increasing, decreasing, or redefining appellate districts
1372 and judicial circuits. If the supreme court finds that a need
1373 exists for increasing or decreasing the number of judges or
1374 increasing, decreasing, or redefining appellate districts and
1375 judicial circuits, it shall, prior to the next regular session of
1376 the legislature, certify to the legislature its findings and
1377 recommendations concerning such need. Upon receipt of such
1378 certificate, the legislature, at the next regular session, shall
1379 consider the findings and recommendations and may reject the
1380 recommendations or by law implement the recommendations in whole
1381 or in part; provided the legislature may create more judicial
1382 offices than are recommended by the supreme court or may decrease
1383 the number of judicial offices by a greater number than
1384 recommended by the court only upon a finding of two-thirds of the
1385 membership of both houses of the legislature, that such a need
1386 exists. A decrease in the number of judges shall be effective
1387 only after the expiration of a term. If the supreme court fails
1388 to make findings as provided above when need exists, the
1389 legislature may by concurrent resolution request the court to
1390 certify its findings and recommendations and upon the failure of
1391 the court to certify its findings for nine consecutive months,
1392 the legislature may, upon a finding of two-thirds of the

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membership of both houses of the legislature that a need exists, increase or decrease the number of judges or increase, decrease, or redefine appellate districts and judicial circuits.

SECTION 10. Retention; election and terms.--

(a) Any justice or judge may qualify for retention by a vote of the electors in the general election next preceding the expiration of the justice's or judge's term in the manner prescribed by law. If a justice or judge is ineligible or fails to qualify for retention, a vacancy shall exist in that office upon the expiration of the term being served by the justice or judge. When a justice or judge so qualifies, the ballot shall read substantially as follows: "Shall Justice (or Judge) (name of justice or judge) of the (name of the court) be retained in office?" If a majority of the qualified electors voting within the territorial jurisdiction of the court vote to retain, the justice or judge shall be retained for a term of six years. The term of the justice or judge retained shall commence on the first Tuesday after the first Monday in January following the general election. If a majority of the qualified electors voting within the territorial jurisdiction of the court vote to not retain, a vacancy shall exist in that office upon the expiration of the term being served by the justice or judge.

(b)(1) The election of circuit judges shall be preserved notwithstanding the provisions of subsection (a) unless a majority of those voting in the jurisdiction of that circuit approves a local option to select circuit judges by merit selection and retention rather than by election. The election of circuit judges shall be by a vote of the qualified electors within the territorial jurisdiction of the court.

1422 (2) The election of county court judges shall be preserved
1423 notwithstanding the provisions of subsection (a) unless a
1424 majority of those voting in the jurisdiction of that county
1425 approves a local option to select county judges by merit
1426 selection and retention rather than by election. The election of
1427 county court judges shall be by a vote of the qualified electors
1428 within the territorial jurisdiction of the court.

1429 (3)a. A vote to exercise a local option to select circuit
1430 court judges and county court judges by merit selection and
1431 retention rather than by election shall be held in each circuit
1432 and county at the general election in the year 2000. If a vote to
1433 exercise this local option fails in a vote of the electors, such
1434 option shall not again be put to a vote of the electors of that
1435 jurisdiction until the expiration of at least two years.

1436 b. ~~After the year 2000,~~ A circuit may initiate the local
1437 option for merit selection and retention or the election of
1438 circuit judges, whichever is applicable, by filing with the
1439 custodian of state records a petition signed by the number of
1440 electors equal to at least ten percent of the votes cast in the
1441 circuit in the last preceding election in which presidential
1442 electors were chosen.

1443 c. ~~After the year 2000,~~ A county may initiate the local
1444 option for merit selection and retention or the election of
1445 county court judges, whichever is applicable, by filing with the
1446 supervisor of elections a petition signed by the number of
1447 electors equal to at least ten percent of the votes cast in the
1448 county in the last preceding election in which presidential
1449 electors were chosen. The terms of circuit judges and judges of
1450 county courts shall be for six years.

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SECTION 11. Vacancies.--

(a) Whenever a vacancy occurs in a judicial office to which election for retention applies, the governor shall fill the vacancy by appointing for a term ending on the first Tuesday after the first Monday in January of the year following the next general election occurring at least one year after the date of appointment, one of not fewer than three persons nor more than six persons nominated by the appropriate judicial nominating commission.

(b) The governor shall fill each vacancy on a circuit court or on a county court, wherein the judges are elected by a majority vote of the electors, by appointing for a term ending on the first Tuesday after the first Monday in January of the year following the next primary and general election occurring at least one year after the date of appointment, one of not fewer than three persons nor more than six persons nominated by the appropriate judicial nominating commission. An election shall be held to fill that judicial office for the term of the office beginning at the end of the appointed term.

(c) The nominations shall be made within thirty days from the occurrence of a vacancy unless the period is extended by the governor for a time not to exceed thirty days. The governor shall make the appointment within sixty days after the nominations have been certified to the governor.

(d) There shall be a separate judicial nominating commission as provided by general law for the supreme court, each district court of appeal, and each judicial circuit for all trial courts within the circuit. Uniform rules of procedure shall be established by the judicial nominating commissions at each level

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of the court system. Such rules, or any part thereof, may be repealed by general law enacted by a majority vote of the membership of each house of the legislature, or by the supreme court, five justices concurring. Except for deliberations of the judicial nominating commissions, the proceedings of the commissions and their records shall be open to the public.

SECTION 12. Discipline; removal and retirement.--

(a) JUDICIAL QUALIFICATIONS COMMISSION.--A judicial qualifications commission is created.

(1) There shall be a judicial qualifications commission vested with jurisdiction to investigate and recommend to the Supreme Court of Florida the removal from office of any justice or judge whose conduct, during term of office or otherwise occurring on or after November 1, 1966, (without regard to the effective date of this section) demonstrates a present unfitness to hold office, and to investigate and recommend the discipline of a justice or judge whose conduct, during term of office or otherwise occurring on or after November 1, 1966, (without regard to the effective date of this section), warrants such discipline. For purposes of this section, discipline is defined as any or all of the following: reprimand, fine, suspension with or without pay, or lawyer discipline. The commission shall have jurisdiction over justices and judges regarding allegations that misconduct occurred before or during service as a justice or judge if a complaint is made no later than one year following service as a justice or judge. The commission shall have jurisdiction regarding allegations of incapacity during service as a justice or judge. The commission shall be composed of:

a. Two judges of district courts of appeal selected by the

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1509 judges of those courts, two circuit judges selected by the judges
1510 of the circuit courts and, two judges of county courts selected
1511 by the judges of those courts;

1512 b. Four electors who reside in the state, who are members
1513 of the bar of Florida, and who shall be chosen by the governing
1514 body of the bar of Florida; and

1515 c. Five electors who reside in the state, who have never
1516 held judicial office or been members of the bar of Florida, and
1517 who shall be appointed by the governor.

1518 (2) The members of the judicial qualifications commission
1519 shall serve staggered terms, not to exceed six years, as
1520 prescribed by general law. No member of the commission except a
1521 judge shall be eligible for state judicial office while acting as
1522 a member of the commission and for a period of two years
1523 thereafter. No member of the commission shall hold office in a
1524 political party or participate in any campaign for judicial
1525 office or hold public office; provided that a judge may campaign
1526 for judicial office and hold that office. The commission shall
1527 elect one of its members as its chairperson.

1528 (3) Members of the judicial qualifications commission not
1529 subject to impeachment shall be subject to removal from the
1530 commission pursuant to the provisions of Article IV, Section 7,
1531 Florida Constitution.

1532 (4) The commission shall adopt rules regulating its
1533 proceedings, the filling of vacancies by the appointing
1534 authorities, the disqualification of members, the rotation of
1535 members between the panels, and the temporary replacement of
1536 disqualified or incapacitated members. The commission's rules,
1537 or any part thereof, may be repealed by general law enacted by a

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1538 majority vote of the membership of each house of the legislature,
 1539 or by the supreme court, five justices concurring. The commission
 1540 shall have power to issue subpoenas. Until formal charges against
 1541 a justice or judge are filed by the investigative panel with the
 1542 clerk of the supreme court of Florida all proceedings by or
 1543 before the commission shall be confidential; provided, however,
 1544 upon a finding of probable cause and the filing by the
 1545 investigative panel with said clerk of such formal charges
 1546 against a justice or judge such charges and all further
 1547 proceedings before the commission shall be public.

1548 (5) The commission shall have access to all information
 1549 from all executive, legislative, and judicial agencies, including
 1550 grand juries, subject to the rules of the commission. At any
 1551 time, on request of the speaker of the house of representatives
 1552 or the governor, the commission shall make available all
 1553 information in the possession of the commission for use in
 1554 consideration of impeachment or suspension, respectively.

1555 (b) PANELS.--The commission shall be divided into an
 1556 investigative panel and a hearing panel as established by rule of
 1557 the commission. The investigative panel is vested with the
 1558 jurisdiction to receive or initiate complaints, conduct
 1559 investigations, dismiss complaints, and upon a vote of a simple
 1560 majority of the panel submit formal charges to the hearing panel.
 1561 The hearing panel is vested with the authority to receive and
 1562 hear formal charges from the investigative panel and upon a two-
 1563 thirds vote of the panel recommend to the supreme court the
 1564 removal of a justice or judge or the involuntary retirement of a
 1565 justice or judge for any permanent disability that seriously
 1566 interferes with the performance of judicial duties. Upon a simple

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majority vote of the membership of the hearing panel, the panel may recommend to the supreme court that the justice or judge be subject to appropriate discipline.

(c) SUPREME COURT.--The supreme court shall receive recommendations from the judicial qualifications commission's hearing panel.

(1) The supreme court may accept, reject, or modify in whole or in part the findings, conclusions, and recommendations of the commission and it may order that the justice or judge be subjected to appropriate discipline, or be removed from office with termination of compensation for willful or persistent failure to perform judicial duties or for other conduct unbecoming a member of the judiciary demonstrating a present unfitness to hold office, or be involuntarily retired for any permanent disability that seriously interferes with the performance of judicial duties. Mala fides Malafides, scienter, or moral turpitude on the part of a justice or judge shall not be required for removal from office of a justice or judge whose conduct demonstrates a present unfitness to hold office. After the filing of a formal proceeding and upon request of the investigative panel, the supreme court may suspend the justice or judge from office, with or without compensation, pending final determination of the inquiry.

(2) The supreme court may award costs to the prevailing party.

(d) The power of removal conferred by this section shall be both alternative and cumulative to the power of impeachment.

(e) Notwithstanding any of the foregoing provisions of this section, if the person who is the subject of proceedings by the

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1596 judicial qualifications commission is a justice of the supreme
 1597 court of Florida all justices of such court automatically shall
 1598 be disqualified to sit as justices of such court with respect to
 1599 all proceedings therein concerning such person and the supreme
 1600 court for such purposes shall be composed of a panel consisting
 1601 of the seven chief judges of the judicial circuits of the state
 1602 of Florida most senior in tenure of judicial office as circuit
 1603 judge. For purposes of determining seniority of such circuit
 1604 judges in the event there be judges of equal tenure in judicial
 1605 office as circuit judge, the judge or judges from the lower
 1606 numbered circuit or circuits shall be deemed senior. In the event
 1607 any such chief circuit judge is under investigation by the
 1608 judicial qualifications commission or is otherwise disqualified
 1609 or unable to serve on the panel, the next most senior chief
 1610 circuit judge or judges shall serve in place of such disqualified
 1611 or disabled chief circuit judge.

1612 (f) SCHEDULE TO SECTION 12.--

1613 (1) Except to the extent inconsistent with the provisions
 1614 of this section, all provisions of law and rules of court in
 1615 force on the effective date of this article shall continue in
 1616 effect until superseded in the manner authorized by the
 1617 constitution.

1618 (2) After this section becomes effective and until adopted
 1619 by rule of the commission consistent with it:

1620 a. The commission shall be divided, as determined by the
 1621 chairperson, into one investigative panel and one hearing panel
 1622 to meet the responsibilities set forth in this section.

1623 b. The investigative panel shall be composed of:

1624 1. Four judges,

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1625 2. Two members of the bar of Florida, and
 1626 3. Three non-lawyers.
 1627 c. The hearing panel shall be composed of:
 1628 1. Two judges,
 1629 2. Two members of the bar of Florida, and
 1630 3. Two non-lawyers.
 1631 d. Membership on the panels may rotate in a manner
 1632 determined by the rules of the commission provided that no member
 1633 shall vote as a member of the investigative and hearing panel on
 1634 the same proceeding.
 1635 e. The commission shall hire separate staff for each panel.
 1636 f. The members of the commission shall serve for staggered
 1637 terms of six years.
 1638 g. The terms of office of the present members of the
 1639 judicial qualifications commission shall expire upon the
 1640 effective date of the amendments to this section approved by the
 1641 legislature during the regular session of the legislature in
 1642 1996, and new members shall be appointed to serve the following
 1643 staggered terms:
 1644 1. Group I.--The terms of five members, composed of two
 1645 electors as set forth in s. 12(a)(1)c. of Article V, one member
 1646 of the bar of Florida as set forth in s. 12(a)(1)b. of Article V,
 1647 one judge from the district courts of appeal, and one circuit
 1648 judge as set forth in s. 12(a)(1)a. of Article V, shall expire on
 1649 December 31, 1998.
 1650 2. Group II.--The terms of five members, composed of one
 1651 elector as set forth in s. 12(a)(1)c. of Article V, two members
 1652 of the bar of Florida as set forth in s. 12(a)(1)b. of Article V,
 1653 one circuit judge, and one county judge as set forth in s.

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12(a)(1)a. of Article V shall expire on December 31, 2000.

3. Group III.--The terms of five members, composed of two electors as set forth in s. 12(a)(1)c. of Article V, one member of the bar of Florida as set forth in s. 12(a)(1)b., one judge from the district courts of appeal, and one county judge as set forth in s. 12(a)(1)a. of Article V, shall expire on December 31, 2002.

h. An appointment to fill a vacancy of the commission shall be for the remainder of the term.

i. Selection of members by district courts of appeal judges, circuit judges, and county court judges, shall be by no less than a majority of the members voting at the respective courts' conferences. Selection of members by the board of governors of the bar of Florida shall be by no less than a majority of the board.

j. The commission shall be entitled to recover the costs of investigation and prosecution, in addition to any penalty levied by the supreme court.

k. The compensation of members and referees shall be the travel expenses or transportation and per diem allowance as provided by general law.

SECTION 13. Prohibited activities.--All justices and judges shall devote full time to their judicial duties. They shall not engage in the practice of law or hold office in any political party.

SECTION 14. Funding.--

(a) All justices and judges shall be compensated only by state salaries fixed by general law. Funding for the state courts system, state attorneys' offices, public defenders'

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1683 offices, and court-appointed counsel, except as otherwise
1684 provided in subsection (c), shall be provided from state revenues
1685 appropriated by general law.

1686 (b) All funding for the offices of the clerks of the
1687 circuit and county courts performing court-related functions,
1688 except as otherwise provided in this subsection and subsection
1689 (c), shall be provided by adequate and appropriate filing fees
1690 for judicial proceedings and service charges and costs for
1691 performing court-related functions as required by general law.
1692 Selected salaries, costs, and expenses of the state courts system
1693 may be funded from appropriate filing fees for judicial
1694 proceedings and service charges and costs for performing court-
1695 related functions, as provided by general law. Where the
1696 requirements of either the United States Constitution or the
1697 Constitution of the State of Florida preclude the imposition of
1698 filing fees for judicial proceedings and service charges and
1699 costs for performing court-related functions sufficient to fund
1700 the court-related functions of the offices of the clerks of the
1701 circuit and county courts, the state shall provide, as determined
1702 by the legislature, adequate and appropriate supplemental funding
1703 from state revenues appropriated by general law.

1704 (c) No county or municipality, except as provided in this
1705 subsection, shall be required to provide any funding for the
1706 state courts system, state attorneys' offices, public defenders'
1707 offices, court-appointed counsel, or the offices of the clerks of
1708 the circuit and county courts performing court-related functions.
1709 Counties shall be required to fund the cost of communications
1710 services, existing radio systems, existing multi-agency criminal
1711 justice information systems, and the cost of construction or

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lease, maintenance, utilities, and security of facilities for the trial courts, public defenders' offices, state attorneys' offices, and the offices of the clerks of the circuit and county courts performing court-related functions. Counties shall also pay reasonable and necessary salaries, costs, and expenses of the state courts system to meet local requirements as determined by general law.

(d) The judiciary shall have no power to fix appropriations.

SECTION 15. Attorneys; admission and discipline.--The supreme court shall have exclusive jurisdiction to regulate the admission of persons to the practice of law and the discipline of persons admitted.

SECTION 16. Clerks of the circuit courts.--There shall be in each county a clerk of the circuit court who shall be selected pursuant to the provisions of Article VIII, Section 1. Notwithstanding any other provision of the constitution, the duties of the clerk of the circuit court may be divided by special or general law between two officers, one serving as clerk of court and one serving as ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds. There may be a clerk of the county court if authorized by general or special law.

SECTION 17. State attorneys.--In each judicial circuit, a state attorney shall be elected for a term of four years. Except as otherwise provided in this constitution, the state attorney shall be the prosecuting officer of all trial courts in that circuit and shall perform other duties prescribed by general law; provided, however, when authorized by general law, the violations

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of all municipal ordinances may be prosecuted by municipal prosecutors. A state attorney shall be an elector of the state and reside in the territorial jurisdiction of the circuit, + shall be and have been a member of the bar of Florida for the preceding five years, + shall devote full time to the duties of the office, + and shall not engage in the private practice of law. State attorneys shall appoint such assistant state attorneys as may be authorized by law.

SECTION 18. Public defenders.--In each judicial circuit, a public defender shall be elected for a term of four years, who shall perform duties prescribed by general law. A public defender shall be an elector of the state and reside in the territorial jurisdiction of the circuit and shall be and have been a member of the bar of Florida for the preceding five years.

Public defenders shall appoint such assistant public defenders as may be authorized by law.

SECTION 19. Judicial officers as conservators of the peace.--All judicial officers in this state shall be conservators of the peace.

SECTION 20. Schedule to Article V.--

(a) This article shall replace all of Article V of the Constitution of 1885, as amended, which shall then stand repealed.

(b) Except to the extent inconsistent with the provisions of this article, all provisions of law and rules of court in force on the effective date of this article shall continue in effect until superseded in the manner authorized by the constitution.

(c) After this article becomes effective, and until changed

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1770 by general law consistent with sections 1 through 19 of this
1771 article:

1772 (1) The supreme court shall have the jurisdiction
1773 immediately theretofore exercised by it, and it shall determine
1774 all proceedings pending before it on the effective date of this
1775 article.

1776 (2) The appellate districts shall be those in existence on
1777 the date of adoption of this article. There shall be a district
1778 court of appeal in each district. The district courts of appeal
1779 shall have the jurisdiction immediately theretofore exercised by
1780 the district courts of appeal and shall determine all proceedings
1781 pending before them on the effective date of this article.

1782 (3) Circuit courts shall have jurisdiction of appeals from
1783 county courts and municipal courts, except those appeals which
1784 may be taken directly to the supreme court; and they shall have
1785 exclusive original jurisdiction in all actions at law not
1786 cognizable by the county courts; of proceedings relating to the
1787 settlement of the estate of decedents and minors, the granting of
1788 letters testamentary, guardianship, involuntary hospitalization,
1789 the determination of incompetency, and other jurisdiction usually
1790 pertaining to courts of probate; in all cases in equity including
1791 all cases relating to juveniles; of all felonies and of all
1792 misdemeanors arising out of the same circumstances as a felony
1793 which is also charged; in all cases involving legality of any tax
1794 assessment or toll; in the action of ejectment; and in all
1795 actions involving the titles or boundaries or right of possession
1796 of real property. The circuit court may issue injunctions.
1797 There shall be judicial circuits which shall be the judicial
1798 circuits in existence on the date of adoption of this article.

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1799 The chief judge of a circuit may authorize a county court judge
1800 to order emergency hospitalizations pursuant to Chapter 71-131,
1801 Laws of Florida, in the absence from the county of the circuit
1802 judge and the county court judge shall have the power to issue
1803 all temporary orders and temporary injunctions necessary or
1804 proper to the complete exercise of such jurisdiction.

1805 (4) County courts shall have original jurisdiction in all
1806 criminal misdemeanor cases not cognizable by the circuit courts,
1807 of all violations of municipal and county ordinances, and of all
1808 actions at law in which the matter in controversy does not exceed
1809 the sum of two thousand five hundred dollars (\$2,500.00)
1810 exclusive of interest and costs, except those within the
1811 exclusive jurisdiction of the circuit courts. Judges of county
1812 courts shall be committing magistrates. The county courts shall
1813 have jurisdiction now exercised by the county judge's courts
1814 other than that vested in the circuit court by subsection (c)(3)
1815 hereof, the jurisdiction now exercised by the county courts, the
1816 claims court, the small claims courts, the small claims
1817 magistrates courts, magistrates courts, justice of the peace
1818 courts, municipal courts and courts of chartered counties,
1819 including but not limited to the counties referred to in Article
1820 VIII, sections 9, 10, 11 and 24 of the Constitution of 1885.

1821 (5) Each judicial nominating commission shall be composed
1822 of the following:

1823 a. Three members appointed by the Board of Governors of The
1824 Florida Bar from among The Florida Bar members who are actively
1825 engaged in the practice of law with offices within the
1826 territorial jurisdiction of the affected court, district or
1827 circuit;

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1828 b. Three electors who reside in the territorial
1829 jurisdiction of the court or circuit appointed by the governor;
1830 and

1831 c. Three electors who reside in the territorial
1832 jurisdiction of the court or circuit and who are not members of
1833 the bar of Florida, selected and appointed by a majority vote of
1834 the other six members of the commission.

1835 (6) No justice or judge shall be a member of a judicial
1836 nominating commission. A member of a judicial nominating
1837 commission may hold public office other than judicial office. No
1838 member shall be eligible for appointment to state judicial office
1839 so long as that person is a member of a judicial nominating
1840 commission and for a period of two years thereafter. All acts of
1841 a judicial nominating commission shall be made with a concurrence
1842 of a majority of its members.

1843 (7) The members of a judicial nominating commission shall
1844 serve for a term of four years. ~~except the terms of the initial~~
1845 ~~members of the judicial nominating commissions shall expire as~~
1846 ~~follows:~~

1847 ~~a. The terms of one member of category a. b. and c. in~~
1848 ~~subsection (c) (5) hereof shall expire on July 1, 1974;~~

1849 ~~b. The terms of one member of category a. b. and c. in~~
1850 ~~subsection (c) (5) hereof shall expire on July 1, 1975;~~

1851 ~~c. The terms of one member of category a. b. and c. in~~
1852 ~~subsection (c) (5) hereof shall expire on July 1, 1976;~~

1853 (8) All fines and forfeitures arising from offenses tried
1854 in the county court shall be collected, and accounted for by
1855 clerk of the court, and deposited in a special trust account.
1856 All fines and forfeitures received from violations of ordinances

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or misdemeanors committed within a county or municipal ordinances committed within a municipality within the territorial jurisdiction of the county court shall be paid monthly to the county or municipality respectively. If any costs are assessed and collected in connection with offenses tried in county court, all court costs shall be paid into the general revenue fund of the state of Florida and such other funds as prescribed by general law.

(9) Any municipality or county may apply to the chief judge of the circuit in which that municipality or county is situated for the county court to sit in a location suitable to the municipality or county and convenient in time and place to its citizens and police officers and upon such application said chief judge shall direct the court to sit in the location unless the chief judge shall determine the request is not justified. If the chief judge does not authorize the county court to sit in the location requested, the county or municipality may apply to the supreme court for an order directing the county court to sit in the location. Any municipality or county which so applies shall be required to provide the appropriate physical facilities in which the county court may hold court.

(10) All courts except the supreme court may sit in divisions as may be established by local rule approved by the supreme court.

(11) A county court judge in any county having a population of 40,000 or less according to the last decennial census, shall not be required to be a member of the bar of Florida.

(12) Municipal prosecutors may prosecute violations of municipal ordinances.

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1886 (13) Justice shall mean a justice elected or appointed to
1887 the supreme court and shall not include any judge assigned from
1888 any court.

1889 (d) When this article becomes effective:

1890 (1) All courts not herein authorized, except as provided by
1891 subsection (d) (4) of this section shall cease to exist and
1892 jurisdiction to conclude all pending cases and enforce all prior
1893 orders and judgments shall vest in the court that would have
1894 jurisdiction of the cause if thereafter instituted. All records
1895 of and property held by courts abolished hereby shall be
1896 transferred to the proper office of the appropriate court under
1897 this article.

1898 (2) Judges of the following courts, if their terms do not
1899 expire in 1973 and if they are eligible under subsection (d) (8)
1900 hereof, shall become additional judges of the circuit court for
1901 each of the counties of their respective circuits, and shall
1902 serve as such circuit judges for the remainder of the terms to
1903 which they were elected and shall be eligible for election as
1904 circuit judges thereafter. These courts are: civil court of
1905 record of Dade county, all criminal courts of record, the felony
1906 courts of record of Alachua, Leon, and Volusia Counties, the
1907 courts of record of Broward, Brevard, Escambia, Hillsborough,
1908 Lee, Manatee, and Sarasota Counties, the civil and criminal court
1909 of record of Pinellas County, and county judge's courts and
1910 separate juvenile courts in counties having a population in
1911 excess of 100,000 according to the 1970 federal census. On the
1912 effective date of this article, there shall be an additional
1913 number of positions of circuit judges equal to the number of
1914 existing circuit judges and the number of judges of the above

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named courts whose term expires in 1973. Elections to such offices shall take place at the same time and manner as elections to other state judicial offices in 1972 and the terms of such offices shall be for a term of six years. Unless changed pursuant to section nine of this article, the number of circuit judges presently existing and created by this subsection shall not be changed.

(3) In all counties having a population of less than 100,000 according to the 1970 federal census and having more than one county judge on the date of the adoption of this article, there shall be the same number of judges of the county court as there are county judges existing on that date unless changed pursuant to section 9 of this article.

(4) Municipal courts shall continue with their same jurisdiction until amended or terminated in a manner prescribed by special or general law or ordinances, or until January 3, 1977, whichever occurs first. On that date all municipal courts not previously abolished shall cease to exist. Judges of municipal courts shall remain in office and be subject to reappointment or reelection in the manner prescribed by law until said courts are terminated pursuant to the provisions of this subsection. Upon municipal courts being terminated or abolished in accordance with the provisions of this subsection, the judges thereof who are not members of the bar of Florida, shall be eligible to seek election as judges of county courts of their respective counties.

(5) Judges, holding elective office in all other courts abolished by this article, whose terms do not expire in 1973 including judges established pursuant to Article VIII, sections 9

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1944 and 11 of the Constitution of 1885 shall serve as judges of the
1945 county court for the remainder of the term to which they were
1946 elected. Unless created pursuant to section 9, of this Article V
1947 such judicial office shall not continue to exist thereafter.

1948 ~~(6) By March 21, 1972, the supreme court shall certify the~~
1949 ~~need for additional circuit and county judges. The legislature~~
1950 ~~in the 1972 regular session may by general law create additional~~
1951 ~~offices of judge, the terms of which shall begin on the effective~~
1952 ~~date of this article. Elections to such offices shall take place~~
1953 ~~at the same time and manner as election to other state judicial~~
1954 ~~offices in 1972.~~

1955 (6)~~(7)~~ County judges of existing county judge's courts and
1956 justices of the peace and magistrates' court who are not members
1957 of bar of Florida shall be eligible to seek election as county
1958 court judges of their respective counties.

1959 (7)~~(8)~~ No judge of a court abolished by this article shall
1960 become or be eligible to become a judge of the circuit court
1961 unless the judge has been a member of bar of Florida for the
1962 preceding five years.

1963 (8)~~(9)~~ The office of judges of all other courts abolished
1964 by this article shall be abolished as of the effective date of
1965 this article.

1966 ~~(10) The offices of county solicitor and prosecuting~~
1967 ~~attorney shall stand abolished, and all county solicitors and~~
1968 ~~prosecuting attorneys holding such offices upon the effective~~
1969 ~~date of this article shall become and serve as assistant state~~
1970 ~~attorneys for the circuits in which their counties are situate~~
1971 ~~for the remainder of their terms, with compensation not less than~~
1972 ~~that received immediately before the effective date of this~~

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article.

(e) LIMITED OPERATION OF SOME PROVISIONS.--

~~(1) All justices of the supreme court, judges of the district courts of appeal and circuit judges in office upon the effective date of this article shall retain their offices for the remainder of their respective terms. All members of the judicial qualifications commission in office upon the effective date of this article shall retain their offices for the remainder of their respective terms. Each state attorney in office on the effective date of this article shall retain the office for the remainder of the term.~~

(1)~~(2)~~ No justice or judge holding office immediately after this article becomes effective who held judicial office on July 1, 1957, shall be subject to retirement from judicial office because of age pursuant to section 8 of this article.

(f) Until otherwise provided by law, the nonjudicial duties required of county judges shall be performed by the judges of the county court.

~~(g) All provisions of Article V of the Constitution of 1885, as amended, not embraced herein which are not inconsistent with this revision shall become statutes subject to modification or repeal as are other statutes.~~

~~(h) The requirements of section 14 relative to all county court judges or any judge of a municipal court who continues to hold office pursuant to subsection (d) (4) hereof being compensated by state salaries shall not apply prior to January 3, 1977, unless otherwise provided by general law.~~

(g)~~(i)~~ DELETION OF OBSOLETE SCHEDULE ITEMS.--The legislature shall have power, by concurrent resolution, to delete

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from this article any subsection of this section 20 including this subsection, when all events to which the subsection to be deleted is or could become applicable have occurred. A legislative determination of fact made as a basis for application of this subsection shall be subject to judicial review.

~~(j) EFFECTIVE DATE. Unless otherwise provided herein, this article shall become effective at 11:59 o'clock P.M., Eastern Standard Time, January 1, 1973.~~

ARTICLE VI

SUFFRAGE AND ELECTIONS

SECTION 1. Regulation of elections.--All elections by the people shall be by direct and secret vote. General elections shall be determined by a plurality of votes cast. Registration and elections shall, and political party functions may, be regulated by law; however, the requirements for a candidate with no party affiliation or for a candidate of a minor party for placement of the candidate's name on the ballot shall be no greater than the requirements for a candidate of the party having the largest number of registered voters.

SECTION 2. Electors.--Every citizen of the United States who is at least eighteen years of age and who is a permanent resident of the state, if registered as provided by law, shall be an elector of the county where registered.

SECTION 3. Oath.--Each eligible citizen upon registering shall subscribe the following: "I do solemnly swear (or affirm) that I will protect and defend the Constitution of the United States and the Constitution of the State of Florida, and that I am qualified to register as an elector under the Constitution and

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laws of the State of Florida."

SECTION 4. Disqualifications.--

(a) No person convicted of a felony, or adjudicated in this or any other state to be mentally incompetent, shall be qualified to vote or hold office until restoration of civil rights or removal of disability.

(b) No person may appear on the ballot for re-election to any of the following offices:

- (1) Florida representative,
- (2) Florida senator,
- (3) Florida Lieutenant governor, or
- (4) Any office of the Florida cabinet,
- ~~(5) U.S. Representative from Florida, or~~
- ~~(6) U.S. Senator from Florida~~

if, by the end of the current term of office, the person will have served (or, but for resignation, would have served) in that office for eight consecutive years.

SECTION 5. Primary, general, and special elections.--

(a) A general election shall be held in each county on the first Tuesday after the first Monday in November of each even-numbered year to choose a successor to each elective state and county officer whose term will expire before the next general election and, except as provided herein, to fill each vacancy in elective office for the unexpired portion of the term. A general election may be suspended or delayed due to a state of emergency or impending emergency pursuant to general law. Special elections and referenda shall be held as provided by law.

(b) If all candidates for an office have the same party

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affiliation and the winner will have no opposition in the general election, all qualified electors, regardless of party affiliation, may vote in the primary elections for that office.

SECTION 6. Municipal and district elections.--Registration and elections in municipalities shall, and in other governmental entities created by statute may, be provided by law.

SECTION 7. Campaign spending limits and funding of campaigns for elective statewide ~~state-wide~~ office.--It is the policy of this state to provide for state-wide elections in which all qualified candidates may compete effectively. A method of public financing for campaigns for state-wide office shall be established by law. Spending limits shall be established for such campaigns for candidates who use public funds in their campaigns. The legislature shall provide funding for this provision. General law implementing this paragraph shall be at least as protective of effective competition by a candidate who uses public funds as the general law in effect on January 1, 1998.

ARTICLE VII

FINANCE AND TAXATION

SECTION 1. Taxation; appropriations; state expenses; state revenue limitation.--

(a) No tax shall be levied except in pursuance of law. No state ad valorem taxes shall be levied upon real estate or tangible personal property. All other forms of taxation shall be preempted to the state except as provided by general law.

(b) Motor vehicles, boats, airplanes, trailers, trailer coaches, and mobile homes, as defined by law, shall be subject to

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a license tax for their operation in the amounts and for the purposes prescribed by law, but shall not be subject to ad valorem taxes.

(c) No money shall be drawn from the treasury except in pursuance of appropriation made by law.

(d) Provision shall be made by law for raising sufficient revenue to defray the expenses of the state for each fiscal period.

(e) Except as provided herein, state revenues collected for any fiscal year shall be limited to state revenues allowed under this subsection for the prior fiscal year plus an adjustment for growth. As used in this subsection, "growth" means an amount equal to the average annual rate of growth in Florida personal income over the most recent twenty quarters times the state revenues allowed under this subsection for the prior fiscal year. ~~For the 1995-1996 fiscal year, the state revenues allowed under this subsection for the prior fiscal year shall equal the state revenues collected for the 1994-1995 fiscal year.~~ Florida personal income shall be determined by the legislature, from information available from the United States Department of Commerce or its successor on the first day of February prior to the beginning of the fiscal year. State revenues collected for any fiscal year in excess of this limitation shall be transferred to the budget stabilization fund until the fund reaches the maximum balance specified in Section 19(g) of Article III, and thereafter shall be refunded to taxpayers as provided by general law. State revenues allowed under this subsection for any fiscal year may be increased by a two-thirds vote of the membership of each house of the legislature in a separate bill that contains no

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2118 other subject and that sets forth the dollar amount by which the
 2119 state revenues allowed will be increased. The vote may not be
 2120 taken less than seventy-two hours after the third reading of the
 2121 bill. For purposes of this subsection, "state revenues" means
 2122 taxes, fees, licenses, and charges for services imposed by the
 2123 legislature on individuals, businesses, or agencies outside state
 2124 government. However, "state revenues" does not include: revenues
 2125 that are necessary to meet the requirements set forth in
 2126 documents authorizing the issuance of bonds by the state;
 2127 revenues that are used to provide matching funds for the federal
 2128 Medicaid program with the exception of the revenues used to
 2129 support the Public Medical Assistance Trust Fund or its successor
 2130 program and with the exception of state matching funds used to
 2131 fund elective expansions made after July 1, 1994; proceeds from
 2132 the state lottery returned as prizes; receipts of the Florida
 2133 Hurricane Catastrophe Fund; balances carried forward from prior
 2134 fiscal years; taxes, licenses, fees, and charges for services
 2135 imposed by local, regional, or school district governing bodies;
 2136 or revenue from taxes, licenses, fees, and charges for services
 2137 required to be imposed by any amendment or revision to this
 2138 constitution after July 1, 1994. An adjustment to the revenue
 2139 limitation shall be made by general law to reflect the fiscal
 2140 impact of transfers of responsibility for the funding of
 2141 governmental functions between the state and other levels of
 2142 government. The legislature shall, by general law, prescribe
 2143 procedures necessary to administer this subsection.

2144 SECTION 2. Taxes; rate.--All ad valorem taxation shall be
 2145 at a uniform rate within each taxing unit, except the taxes on
 2146 intangible personal property may be at different rates but shall

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never exceed two mills on the dollar of assessed value; provided, as to any obligations secured by mortgage, deed of trust, or other lien on real estate wherever located, an intangible tax of not more than two mills on the dollar may be levied by law to be in lieu of all other intangible assessments on such obligations.

SECTION 3. Taxes; exemptions.--

(a) All property owned by a municipality and used exclusively by it for municipal or public purposes shall be exempt from taxation. A municipality, owning property outside the municipality, may be required by general law to make payment to the taxing unit in which the property is located. Such portions of property as are used predominantly for educational, literary, scientific, religious, or charitable purposes may be exempted by general law from taxation.

(b) There shall be exempt from taxation, cumulatively, to every head of a family residing in this state, household goods and personal effects to the value fixed by general law, not less than one thousand dollars, and to every widow or widower or person who is blind or totally and permanently disabled, property to the value fixed by general law not less than five hundred dollars.

(c) Any county or municipality may, for the purpose of its respective tax levy and subject to the provisions of this subsection and general law, grant community and economic development ad valorem tax exemptions to new businesses and expansions of existing businesses, as defined by general law. Such an exemption may be granted only by ordinance of the county or municipality, and only after the electors of the county or municipality voting on such question in a referendum authorize

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the county or municipality to adopt such ordinances. An exemption so granted shall apply to improvements to real property made by or for the use of a new business and improvements to real property related to the expansion of an existing business and shall also apply to tangible personal property of such new business and tangible personal property related to the expansion of an existing business. The amount or limits of the amount of such exemption shall be specified by general law. The period of time for which such exemption may be granted to a new business or expansion of an existing business shall be determined by general law. The authority to grant such exemption shall expire ten years from the date of approval by the electors of the county or municipality, and may be renewable by referendum as provided by general law.

(d) By general law and subject to conditions specified therein, there may be granted an ad valorem tax exemption to a renewable energy source device and to real property on which such device is installed and operated, to the value fixed by general law not to exceed the original cost of the device, and for the period of time fixed by general law not to exceed ten years.

(e) Any county or municipality may, for the purpose of its respective tax levy and subject to the provisions of this subsection and general law, grant historic preservation ad valorem tax exemptions to owners of historic properties. This exemption may be granted only by ordinance of the county or municipality. The amount or limits of the amount of this exemption and the requirements for eligible properties must be specified by general law. The period of time for which this exemption may be granted to a property owner shall be determined

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by general law.

SECTION 4. Taxation; assessments.--By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land, land producing high water recharge to Florida's aquifers, or land used exclusively for noncommercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

(b) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.

(c) All persons entitled to a homestead exemption under Section 6 of this Article shall have their homestead assessed at just value as of January 1 of the year following the effective date of this amendment. This assessment shall change only as provided herein.

(1) Assessments subject to this provision shall be changed annually on January 1st of each year; but those changes in assessments shall not exceed the lower of the following:

a. Three percent (3%) of the assessment for the prior year.

b. The percent change in the Consumer Price Index for all urban consumers, U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics.

(2) No assessment shall exceed just value.

(3) After any change of ownership, as provided by general law, homestead property shall be assessed at just value as of

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2234 January 1 of the following year. Thereafter, the homestead shall
2235 be assessed as provided herein.

2236 (4) New homestead property shall be assessed at just value
2237 as of January 1st of the year following the establishment of the
2238 homestead. That assessment shall only change as provided herein.

2239 (5) Changes, additions, reductions, or improvements to
2240 homestead property shall be assessed as provided for by general
2241 law; provided, however, after the adjustment for any change,
2242 addition, reduction, or improvement, the property shall be
2243 assessed as provided herein.

2244 (6) In the event of a termination of homestead status, the
2245 property shall be assessed as provided by general law.

2246 (7) The provisions of this amendment are severable. If any
2247 of the provisions of this amendment shall be held
2248 unconstitutional by any court of competent jurisdiction, the
2249 decision of such court shall not affect or impair any remaining
2250 provisions of this amendment.

2251 (d) The legislature may, by general law, for assessment
2252 purposes and subject to the provisions of this subsection, allow
2253 counties and municipalities to authorize by ordinance that
2254 historic property may be assessed solely on the basis of
2255 character or use. Such character or use assessment shall apply
2256 only to the jurisdiction adopting the ordinance. The
2257 requirements for eligible properties must be specified by general
2258 law.

2259 (e) A county may, in the manner prescribed by general law,
2260 provide for a reduction in the assessed value of homestead
2261 property to the extent of any increase in the assessed value of
2262 that property which results from the construction or

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2263 reconstruction of the property for the purpose of providing
2264 living quarters for one or more natural or adoptive grandparents
2265 or parents of the owner of the property or of the owner's spouse
2266 if at least one of the grandparents or parents for whom the
2267 living quarters are provided is 62 years of age or older. Such a
2268 reduction may not exceed the lesser of the following:

2269 (1) The increase in assessed value resulting from
2270 construction or reconstruction of the property.

2271 (2) Twenty percent of the total assessed value of the
2272 property as improved.

2273 SECTION 5. Estate, inheritance, and income taxes.--

2274 (a) NATURAL PERSONS. No tax upon estates or inheritances
2275 or upon the income of natural persons who are residents or
2276 citizens of the state shall be levied by the state, or under its
2277 authority, in excess of the aggregate of amounts which may be
2278 allowed to be credited upon or deducted from any similar tax
2279 levied by the United States or any state.

2280 (b) OTHERS. No tax upon the income of residents and
2281 citizens other than natural persons shall be levied by the state,
2282 or under its authority, in excess of five percent 5% of net
2283 income, as defined by law, or at such greater rate as is
2284 authorized by a three-fifths(3/5) vote of the membership of each
2285 house of the legislature or as will provide for the state the
2286 maximum amount which may be allowed to be credited against income
2287 taxes levied by the United States and other states. There shall
2288 be exempt from taxation not less than five thousand dollars
2289 (\$5,000) of the excess of net income subject to tax over the
2290 maximum amount allowed to be credited against income taxes levied
2291 by the United States and other states.

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2292 (c) EFFECTIVE DATE. This section shall become effective
2293 immediately upon approval by the electors of Florida.

2294 SECTION 6. Homestead exemptions.--

2295 (a) Every person who has the legal or equitable title to
2296 real estate and maintains thereon the permanent residence of the
2297 owner, or another legally or naturally dependent upon the owner,
2298 shall be exempt from taxation thereon, except assessments for
2299 special benefits, up to the assessed valuation of five thousand
2300 dollars, upon establishment of right thereto in the manner
2301 prescribed by law. The real estate may be held by legal or
2302 equitable title, by the entirety, jointly, in common, as a
2303 condominium, or indirectly by stock ownership or membership
2304 representing the owner's or member's proprietary interest in a
2305 corporation owning a fee or a leasehold initially in excess of
2306 ninety-eight years.

2307 (b) Not more than one exemption shall be allowed any
2308 individual or family unit or with respect to any residential
2309 unit. No exemption shall exceed the value of the real estate
2310 assessable to the owner or, in case of ownership through stock or
2311 membership in a corporation, the value of the proportion which
2312 the interest in the corporation bears to the assessed value of
2313 the property.

2314 (c) By general law and subject to conditions specified
2315 therein, the exemption shall be increased to a total of twenty-
2316 five thousand dollars of the assessed value of the real estate
2317 for each school district levy. By general law and subject to
2318 conditions specified therein, the exemption for all other levies
2319 may be increased up to an amount not exceeding ten thousand
2320 dollars of the assessed value of the real estate if the owner has

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attained age sixty-five or is totally and permanently disabled and if the owner is not entitled to the exemption provided in subsection (d).

(d) By general law and subject to conditions specified therein, the exemption shall be increased to a total of the following amounts of assessed value of real estate for each levy other than those of school districts: fifteen thousand dollars with respect to 1980 assessments; twenty thousand dollars with respect to 1981 assessments; twenty-five thousand dollars with respect to assessments for 1982 and each year thereafter.

However, such increase shall not apply with respect to any assessment roll until such roll is first determined to be in compliance with the provisions of section 4 by a state agency designated by general law. This subsection shall stand repealed on the effective date of any amendment to section 4 which provides for the assessment of homestead property at a specified percentage of its just value.

(e) By general law and subject to conditions specified therein, the Legislature may provide to renters, who are permanent residents, ad valorem tax relief on all ad valorem tax levies. Such ad valorem tax relief shall be in the form and amount established by general law.

(f) The legislature may, by general law, allow counties or municipalities, for the purpose of their respective tax levies and subject to the provisions of general law, to grant an additional homestead tax exemption not exceeding twenty-five thousand dollars to any person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner and who has attained age sixty-five and

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whose household income, as defined by general law, does not exceed twenty thousand dollars. The general law must allow counties and municipalities to grant this additional exemption, within the limits prescribed in this subsection, by ordinance adopted in the manner prescribed by general law, and must provide for the periodic adjustment of the income limitation prescribed in this subsection for changes in the cost of living.

SECTION 7. Allocation of pari-mutuel taxes.--Taxes upon the operation of pari-mutuel pools may be preempted to the state or allocated in whole or in part to the counties. When allocated to the counties, the distribution shall be in equal amounts to the several counties.

SECTION 8. Aid to local governments.--State funds may be appropriated to the several counties, school districts, municipalities, or special districts upon such conditions as may be provided by general law. These conditions may include the use of relative ad valorem assessment levels determined by a state agency designated by general law.

SECTION 9. Local taxes.--

(a) Counties, school districts, and municipalities shall, and special districts may, be authorized by law to levy ad valorem taxes and may be authorized by general law to levy other taxes, for their respective purposes, except ad valorem taxes on intangible personal property and taxes prohibited by this constitution.

(b) Ad valorem taxes, exclusive of taxes levied for the payment of bonds and taxes levied for periods not longer than two years when authorized by vote of the electors who are the owners of freeholds therein not wholly exempt from taxation, shall not

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be levied in excess of the following millages upon the assessed value of real estate and tangible personal property: for all county purposes, ten mills; for all municipal purposes, ten mills; for all school purposes, ten mills; for water management purposes for the northwest portion of the state lying west of the line between ranges two and three east, 0.05 mill; for water management purposes for the remaining portions of the state, 1.0 mill; and for all other special districts a millage authorized by law approved by vote of the electors who are owners of freeholds therein not wholly exempt from taxation. A county furnishing municipal services may, to the extent authorized by law, levy additional taxes within the limits fixed for municipal purposes.

SECTION 10. Pledging credit.--Neither the state nor any county, school district, municipality, special district, or agency of any of them, shall become a joint owner with, or stockholder of, or give, lend, or use its taxing power or credit to aid any corporation, association, partnership, or person; but this shall not prohibit laws authorizing:

(a) The investment of public trust funds;

(b) The investment of other public funds in obligations of, or insured by, the United States or any of its instrumentalities;

(c) The issuance and sale by any county, municipality, special district, or other local governmental body of (1) revenue bonds to finance or refinance the cost of capital projects for airports or port facilities, or (2) revenue bonds to finance or refinance the cost of capital projects for industrial or manufacturing plants to the extent that the interest thereon is exempt from income taxes under the then existing laws of the United States, when, in either case, the revenue bonds are

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2408 payable solely from revenue derived from the sale, operation, or
2409 leasing of the projects. If any project so financed, or any part
2410 thereof, is occupied or operated by any private corporation,
2411 association, partnership, or person pursuant to contract or lease
2412 with the issuing body, the property interest created by such
2413 contract or lease shall be subject to taxation to the same extent
2414 as other privately owned property.

2415 (d) a municipality, county, special district, or agency of
2416 any of them, being a joint owner of, giving, or lending or using
2417 its taxing power or credit for the joint ownership, construction,
2418 and operation of electrical energy generating or transmission
2419 facilities with any corporation, association, partnership, or
2420 person.

2421 SECTION 11. State bonds; revenue bonds.--

2422 (a) State bonds pledging the full faith and credit of the
2423 state may be issued only to finance or refinance the cost of
2424 state fixed capital outlay projects authorized by law, and
2425 purposes incidental thereto, upon approval by a vote of the
2426 electors; provided state bonds issued pursuant to this subsection
2427 may be refunded without a vote of the electors at a lower net
2428 average interest cost rate. The total outstanding principal of
2429 state bonds issued pursuant to this subsection shall never exceed
2430 fifty percent of the total tax revenues of the state for the two
2431 preceding fiscal years, excluding any tax revenues held in trust
2432 under the provisions of this constitution.

2433 (b) Moneys sufficient to pay debt service on state bonds as
2434 the same becomes due shall be appropriated by law.

2435 (c) Any state bonds pledging the full faith and credit of
2436 the state issued under this section or any other section of this

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2437 constitution may be combined for the purposes of sale.

2438 (d) Revenue bonds may be issued by the state or its
2439 agencies without a vote of the electors to finance or refinance
2440 the cost of state fixed capital outlay projects authorized by
2441 law, and purposes incidental thereto, and shall be payable solely
2442 from funds derived directly from sources other than state tax
2443 revenues.

2444 (e) Bonds pledging all or part of a dedicated state tax
2445 revenue may be issued by the state in the manner provided by
2446 general law to finance or refinance the acquisition and
2447 improvement of land, water areas, and related property interests
2448 and resources for the purposes of conservation, outdoor
2449 recreation, water resource development, restoration of natural
2450 systems, and historic preservation.

2451 (f) Each project, building, or facility to be financed or
2452 refinanced with revenue bonds issued under this section shall
2453 first be approved by the Legislature by an act relating to
2454 appropriations or by general law.

2455 SECTION 12. Local bonds.--Counties, school districts,
2456 municipalities, special districts, and local governmental bodies
2457 with taxing powers may issue bonds, certificates of indebtedness,
2458 or any form of tax anticipation certificates, payable from ad
2459 valorem taxation and maturing more than twelve months after
2460 issuance only:

2461 (a) To finance or refinance capital projects authorized by
2462 law and only when approved by vote of the electors who are owners
2463 of freeholds therein not wholly exempt from taxation; or

2464 (b) To refund outstanding bonds and interest and redemption
2465 premium thereon at a lower net average interest cost rate.

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SECTION 13. Relief from illegal taxes.--Until payment of all taxes which have been legally assessed upon the property of the same owner, no court shall grant relief from the payment of any tax that may be illegal or illegally assessed.

SECTION 14. Bonds for pollution control and abatement and other water facilities.--

(a) When authorized by law, state bonds pledging the full faith and credit of the state may be issued without an election to finance the construction of air and water pollution control and abatement and solid waste disposal facilities and other water facilities authorized by general law (herein referred to as "facilities") to be operated by any municipality, county, district or authority, or any agency thereof (herein referred to as "local governmental agencies"), or by any agency of the State of Florida. Such bonds shall be secured by a pledge of and shall be payable primarily from all or any part of revenues to be derived from operation of such facilities, special assessments, rentals to be received under lease-purchase agreements herein provided for, any other revenues that may be legally available for such purpose, including revenues from other facilities, or any combination thereof (herein collectively referred to as "pledged revenues"), and shall be additionally secured by the full faith and credit of the State of Florida.

(b) No such bonds shall be issued unless a state fiscal agency, created by law, has made a determination that in no state fiscal year will the debt service requirements of the bonds proposed to be issued and all other bonds secured by the pledged revenues exceed seventy-five per cent of the pledged revenues.

(c) The state may lease any of such facilities to any local

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2495 governmental agency, under lease-purchase agreements for such
2496 periods and under such other terms and conditions as may be
2497 mutually agreed upon. The local governmental agencies may pledge
2498 the revenues derived from such leased facilities or any other
2499 available funds for the payment of rentals thereunder; and, in
2500 addition, the full faith and credit and taxing power of such
2501 local governmental agencies may be pledged for the payment of
2502 such rentals without any election of freeholder electors or
2503 qualified electors.

2504 (d) The state may also issue such bonds for the purpose of
2505 loaning money to local governmental agencies, for the
2506 construction of such facilities to be owned or operated by any of
2507 such local governmental agencies. Such loans shall bear interest
2508 at not more than one-half of one per cent per annum greater than
2509 the last preceding issue of state bonds pursuant to this section,
2510 shall be secured by the pledged revenues, and may be additionally
2511 secured by the full faith and credit of the local governmental
2512 agencies.

2513 (e) The total outstanding principal of state bonds issued
2514 pursuant to this section ~~14~~ shall never exceed fifty per cent of
2515 the total tax revenues of the state for the two preceding fiscal
2516 years.

2517 SECTION 15. Revenue bonds for scholarship loans.--

2518 (a) When authorized by law, revenue bonds may be issued to
2519 establish a fund to make loans to students determined eligible as
2520 prescribed by law and who have been admitted to attend any public
2521 or private institutions of higher learning, junior colleges,
2522 health related training institutions, or vocational training
2523 centers, which are recognized or accredited under terms and

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conditions prescribed by law. Revenue bonds issued pursuant to this section shall be secured by a pledge of and shall be payable primarily from payments of interest, principal, and handling charges to such fund from the recipients of the loans and, if authorized by law, may be additionally secured by student fees and by any other moneys in such fund. There shall be established from the proceeds of each issue of revenue bonds a reserve account in an amount equal to and sufficient to pay the greatest amount of principal, interest, and handling charges to become due on such issue in any ensuing state fiscal year.

(b) Interest moneys in the fund established pursuant to this section, not required in any fiscal year for payment of debt service on then outstanding revenue bonds or for maintenance of the reserve account, may be used for educational loans to students determined to be eligible therefor in the manner provided by law, or for such other related purposes as may be provided by law.

SECTION 16. Bonds for housing and related facilities.--

(a) When authorized by law, revenue bonds may be issued without an election to finance or refinance housing and related facilities in Florida, herein referred to as "facilities."

(b) The bonds shall be secured by a pledge of and shall be payable primarily from all or any part of revenues to be derived from the financing, operation or sale of such facilities, mortgage or loan payments, and any other revenues or assets that may be legally available for such purposes derived from sources other than ad valorem taxation, including revenues from other facilities, or any combination thereof, herein collectively referred to as "pledged revenues," provided that in no event

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2553 shall the full faith and credit of the state be pledged to secure
2554 such revenue bonds.

2555 (c) No bonds shall be issued unless a state fiscal agency,
2556 created by law, has made a determination that in no state fiscal
2557 year will the debt service requirements of the bonds proposed to
2558 be issued and all other bonds secured by the same pledged
2559 revenues exceed the pledged revenues available for payment of
2560 such debt service requirements, as defined by law.

2561 SECTION 17. Bonds for acquiring transportation right-of-way
2562 or for constructing bridges.--

2563 (a) When authorized by law, state bonds pledging the full
2564 faith and credit of the state may be issued, without a vote of
2565 the electors, to finance or refinance the cost of acquiring real
2566 property or the rights to real property for state roads as
2567 defined by law, or to finance or refinance the cost of state
2568 bridge construction, and purposes incidental to such property
2569 acquisition or state bridge construction.

2570 (b) Bonds issued under this section shall be secured by a
2571 pledge of and shall be payable primarily from motor fuel or
2572 special fuel taxes, except those defined in Section 9(c) of
2573 Article XII, as provided by law, and shall additionally be
2574 secured by the full faith and credit of the state.

2575 (c) No bonds shall be issued under this section unless a
2576 state fiscal agency, created by law, has made a determination
2577 that in no state fiscal year will the debt service requirements
2578 of the bonds proposed to be issued and all other bonds secured by
2579 the same pledged revenues exceed ninety percent of the pledged
2580 revenues available for payment of such debt service requirements,
2581 as defined by law. For the purposes of this subsection, the term

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"pledged revenues" means all revenues pledged to the payment of debt service, excluding any pledge of the full faith and credit of the state.

SECTION 18. Laws requiring counties or municipalities to spend funds or limiting their ability to raise revenue or receive state tax revenue.--

(a) No county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds unless the legislature has determined that such law fulfills an important state interest and unless: funds have been appropriated that have been estimated at the time of enactment to be sufficient to fund such expenditure; the legislature authorizes or has authorized a county or municipality to enact a funding source not available for such county or municipality on February 1, 1989, that can be used to generate the amount of funds estimated to be sufficient to fund such expenditure by a simple majority vote of the governing body of such county or municipality; the law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature; the expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments; or the law is either required to comply with a federal requirement or required for eligibility for a federal entitlement, which federal requirement specifically contemplates actions by counties or municipalities for compliance.

(b) Except upon approval of each house of the legislature by two-thirds of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of

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doing so would be to reduce the authority that municipalities or counties have to raise revenues in the aggregate, as such authority exists on February 1, 1989.

(c) Except upon approval of each house of the legislature by two-thirds of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the percentage of a state tax shared with counties and municipalities as an aggregate on February 1, 1989. The provisions of this subsection shall not apply to enhancements enacted after February 1, 1989, to state tax sources, or during a fiscal emergency declared in a written joint proclamation issued by the president of the senate and the speaker of the house of representatives, or where the legislature provides additional state-shared revenues which are anticipated to be sufficient to replace the anticipated aggregate loss of state-shared revenues resulting from the reduction of the percentage of the state tax shared with counties and municipalities, which source of replacement revenues shall be subject to the same requirements for repeal or modification as provided herein for a state-shared tax source existing on February 1, 1989.

(d) Laws adopted to require funding of pension benefits existing on the effective date of this section; criminal laws; election laws; the general appropriations act; special appropriations acts; laws reauthorizing but not expanding then-existing statutory authority; laws having insignificant fiscal impact; and laws creating, modifying, or repealing noncriminal infractions are exempt from the requirements of this section.

(e) The legislature may enact laws to assist in the

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implementation and enforcement of this section.

ARTICLE VIII

LOCAL GOVERNMENT

SECTION 1. Counties.--

(a) POLITICAL SUBDIVISIONS. The state shall be divided by law into political subdivisions called counties. Counties may be created, abolished, or changed by law, with provision for payment or apportionment of the public debt.

(b) COUNTY FUNDS. The care, custody, and method of disbursing county funds shall be provided by general law.

(c) GOVERNMENT. Pursuant to general or special law, a county government may be established by charter which shall be adopted, amended, or repealed only upon vote of the electors of the county in a special election called for that purpose.

(d) COUNTY OFFICERS. There shall be elected by the electors of each county, for terms of four years, a sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court; except, when provided by county charter or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified, or any county office may be abolished when all the duties of the office prescribed by general law are transferred to another office. When not otherwise provided by county charter or special law approved by vote of the electors, the clerk of the circuit court shall be ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds.

(e) COMMISSIONERS. Except when otherwise provided by

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2669 county charter, the governing body of each county shall be a
2670 board of county commissioners composed of five or seven members
2671 serving staggered terms of four years. After each decennial
2672 census, the board of county commissioners shall divide the county
2673 into districts of contiguous territory as nearly equal in
2674 population as practicable. One commissioner residing in each
2675 district shall be elected as provided by law.

2676 (f) NON-CHARTER GOVERNMENT. Counties not operating under
2677 county charters shall have such power of self-government as is
2678 provided by general or special law. The board of county
2679 commissioners of a county not operating under a charter may
2680 enact, in a manner prescribed by general law, county ordinances
2681 not inconsistent with general or special law, but an ordinance in
2682 conflict with a municipal ordinance shall not be effective within
2683 the municipality to the extent of such conflict.

2684 (g) CHARTER GOVERNMENT. Counties operating under county
2685 charters shall have all powers of local self-government not
2686 inconsistent with general law, or with special law approved by
2687 vote of the electors. The governing body of a county operating
2688 under a charter may enact county ordinances not inconsistent with
2689 general law. The charter shall provide which shall prevail in
2690 the event of conflict between county and municipal ordinances.

2691 (h) TAXES; LIMITATION. Property situate within
2692 municipalities shall not be subject to taxation for services
2693 rendered by the county exclusively for the benefit of the
2694 property or residents in unincorporated areas.

2695 (i) COUNTY ORDINANCES. Each county ordinance shall be
2696 filed with the custodian of state records and shall become
2697 effective at such time thereafter as is provided by general law.

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2698 (j) VIOLATION OF ORDINANCES. Persons violating county
2699 ordinances shall be prosecuted and punished as provided by law.

2700 (k) COUNTY SEAT. In every county there shall be a county
2701 seat at which shall be located the principal offices and
2702 permanent records of all county officers. The county seat may
2703 not be moved except as provided by general law. Branch offices
2704 for the conduct of county business may be established elsewhere
2705 in the county by resolution of the governing body of the county
2706 in the manner prescribed by law. No instrument shall be deemed
2707 recorded until filed at the county seat, or a branch office
2708 designated by the governing body of the county for the recording
2709 of instruments, according to law.

2710 SECTION 2. Municipalities.--

2711 (a) ESTABLISHMENT. Municipalities may be established or
2712 abolished and their charters amended pursuant to general or
2713 special law. When any municipality is abolished, provision shall
2714 be made for the protection of its creditors.

2715 (b) POWERS. Municipalities shall have governmental,
2716 corporate, and proprietary powers to enable them to conduct
2717 municipal government, perform municipal functions and render
2718 municipal services, and may exercise any power for municipal
2719 purposes except as otherwise provided by law. Each municipal
2720 legislative body shall be elective.

2721 (c) ANNEXATION. Municipal annexation of unincorporated
2722 territory, merger of municipalities, and exercise of extra-
2723 territorial powers by municipalities shall be as provided by
2724 general or special law.

2725 SECTION 3. Consolidation.--The government of a county and
2726 the government of one or more municipalities located therein may

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be consolidated into a single government which may exercise any and all powers of the county and the several municipalities. The consolidation plan may be proposed only by special law, which shall become effective if approved by vote of the electors of the county, or of the county and municipalities affected, as may be provided in the plan. Consolidation shall not extend the territorial scope of taxation for the payment of pre-existing debt except to areas whose residents receive a benefit from the facility or service for which the indebtedness was incurred.

SECTION 4. Transfer of powers.--By law or by resolution of the governing bodies of each of the governments affected, any function or power of a county, municipality, or special district may be transferred to or contracted to be performed by another county, municipality, or special district, after approval by vote of the electors of the transferor and approval by vote of the electors of the transferee, or as otherwise provided by law.

SECTION 5. Local option.--

(a) Local option on the legality or prohibition of the sale of intoxicating liquors, wines, or beers shall be preserved to each county. The status of a county with respect thereto shall be changed only by vote of the electors in a special election called upon the petition of twenty-five percent ~~per cent~~ of the electors of the county, and not sooner than two years after an earlier election on the same question. Where legal, the sale of intoxicating liquors, wines, and beers shall be regulated by law.

(b) Each county shall have the authority to require a criminal history records check and a 3-to-5-day ~~3-to-5-day~~ waiting period, excluding weekends and legal holidays, in connection with the sale of any firearm occurring within such

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2756 county. For purposes of this subsection, the term "sale" means
2757 the transfer of money or other valuable consideration for any
2758 firearm when any part of the transaction is conducted on property
2759 to which the public has the right of access. Holders of a
2760 concealed weapons permit as prescribed by general law shall not
2761 be subject to the provisions of this subsection when purchasing a
2762 firearm.

2763 SECTION 6. Schedule to Article VIII.--

2764 (a) This article shall replace all of Article VIII of the
2765 Constitution of 1885, as amended, except those sections expressly
2766 retained and made a part of this article by reference.

2767 (b) COUNTIES; COUNTY SEATS; MUNICIPALITIES; DISTRICTS. The
2768 status of the following items as they exist on the date this
2769 article becomes effective is recognized and shall be continued
2770 until changed in accordance with law: the counties of the state;
2771 their status with respect to the legality of the sale of
2772 intoxicating liquors, wines, and beers; the method of selection
2773 of county officers; the performance of municipal functions by
2774 county officers; the county seats; and the municipalities and
2775 special districts of the state, their powers, jurisdiction, and
2776 government.

2777 (c) OFFICERS TO CONTINUE IN OFFICE. Every person holding
2778 office when this article becomes effective shall continue in
2779 office for the remainder of the term if that office is not
2780 abolished. If the office is abolished, the incumbent shall be
2781 paid adequate compensation, to be fixed by law, for the loss of
2782 emoluments for the remainder of the term.

2783 (d) ORDINANCES. Local laws relating only to unincorporated
2784 areas of a county on the effective date of this article may be

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amended or repealed by county ordinance.

(e) CONSOLIDATION AND HOME RULE. Article VIII, Sections 9, 10, 11, and 24, of the Constitution of 1885, as amended, shall remain in full force and effect as to each county affected, as if this article had not been adopted, until that county shall expressly adopt a charter or home rule plan pursuant to this article. All provisions of the Metropolitan Dade County Home Rule Charter, heretofore or hereafter adopted by the electors of Dade County pursuant to Article VIII, Section 11, of the Constitution of 1885, as amended, shall be valid, and any amendments to such charter shall be valid; provided that the said provisions of such charter and the said amendments thereto are authorized under said Article VIII, Section 11, of the Constitution of 1885, as amended.

(f) DADE COUNTY; POWERS CONFERRED UPON MUNICIPALITIES. To the extent not inconsistent with the powers of existing municipalities or general law, the Metropolitan Government of Dade County may exercise all the powers conferred now or hereafter by general law upon municipalities.

(g) DELETION OF OBSOLETE SCHEDULE ITEMS. The legislature shall have power, by joint resolution, to delete from this article any subsection of this Section 6, including this subsection, when all events to which the subsection to be deleted is or could become applicable have occurred. A legislative determination of fact made as a basis for application of this subsection shall be subject to judicial review.

ARTICLE IX

EDUCATION

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SECTION 1. Public education.--

(a) The education of children is a fundamental value of the people of the State of Florida. It is, therefore, a paramount duty of the state to make adequate provision for the education of all children residing within its borders. Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education and for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require. To assure that children attending public schools obtain a high quality education, the legislature shall make adequate provision to ensure that, by the beginning of the 2010 school year, there are a sufficient number of classrooms so that:

(1) The maximum number of students who are assigned to each teacher who is teaching in public school classrooms for prekindergarten through grade 3 does not exceed 18 students;

(2) The maximum number of students who are assigned to each teacher who is teaching in public school classrooms for grades 4 through 8 does not exceed 22 students; and

(3) The maximum number of students who are assigned to each teacher who is teaching in public school classrooms for grades 9 through 12 does not exceed 25 students.

The class size requirements of this subsection do not apply to extracurricular classes. Payment of the costs associated with reducing class size to meet these requirements is the responsibility of the state and not of local school ~~schools~~ districts. ~~Beginning with the 2003-2004 fiscal year, The~~

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2843 legislature shall provide sufficient funds to reduce the average
2844 number of students in each classroom by at least two students per
2845 year until the maximum number of students per classroom does not
2846 exceed the requirements of this subsection.

2847 (b) Every four-year-old ~~four-year-old~~ child in Florida
2848 shall be provided by the State a high-quality ~~high-quality~~ pre-
2849 kindergarten learning opportunity in the form of an early
2850 childhood development and education program which shall be
2851 voluntary, high quality, free, and delivered according to
2852 professionally accepted standards. An early childhood development
2853 and education program means an organized program designed to
2854 address and enhance each child's ability to make age-appropriate
2855 ~~age-appropriate~~ progress in an appropriate range of settings in
2856 the development of language and cognitive capabilities and
2857 emotional, social, regulatory, and moral capacities through
2858 education in basic skills and such other skills as the
2859 Legislature may determine to be appropriate.

2860 (c) The early childhood education and development programs
2861 provided by reason of subsection ~~subparagraph~~ (b) shall be
2862 implemented ~~no later than the beginning of the 2005 school year~~
2863 through funds generated in addition to those used for existing
2864 education, health, and development programs. Existing education,
2865 health, and development programs are those funded by the State as
2866 of January 1, 2002, that provided for child or adult education,
2867 health care, or development.

2868 SECTION 2. State board of education.--The state board of
2869 education shall be a body corporate and have such supervision of
2870 the system of free public education as is provided by law. The
2871 state board of education shall consist of seven members appointed

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by the governor to staggered 4-year terms, subject to confirmation by the senate. The state board of education shall appoint the commissioner of education.

SECTION 3. Terms of appointive board members.--Members of any appointive board dealing with education may serve terms in excess of four years as provided by law.

SECTION 4. School districts; school boards.--

(a) Each county shall constitute a school district, ⁺ provided that, two or more contiguous counties, upon vote of the electors of each county pursuant to law, may be combined into one school district. In each school district, there shall be a school board composed of five or more members chosen by vote of the electors in a nonpartisan election for appropriately staggered terms of four years, as provided by law.

(b) The school board shall operate, control, and supervise all free public schools within the school district and determine the rate of school district taxes within the limits prescribed herein. Two or more school districts may operate and finance joint educational programs.

SECTION 5. Superintendent of schools.--In each school district, there shall be a superintendent of schools who shall be elected at the general election in each year the number of which is a multiple of four for a term of four years; or, when provided by resolution of the district school board, or by special law, approved by vote of the electors, the district school superintendent in any school district shall be employed by the district school board as provided by general law. The resolution or special law may be rescinded or repealed by either procedure after four years.

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2901 SECTION 6. State school fund.--The income derived from the
2902 state school fund shall, and the principal of the fund may, be
2903 appropriated, but only to the support and maintenance of free
2904 public schools.

2905 SECTION 7. State University System.--

2906 (a) PURPOSES. In order to achieve excellence through
2907 teaching students, advancing research and providing public
2908 service for the benefit of Florida's citizens, their communities
2909 and economies, the people hereby establish a system of governance
2910 for the state university system of Florida.

2911 (b) STATE UNIVERSITY SYSTEM. There shall be a single state
2912 university system comprised of all public universities. A board
2913 of trustees shall administer each public university and a board
2914 of governors shall govern the state university system.

2915 (c) LOCAL BOARDS OF TRUSTEES. Each local constituent
2916 university shall be administered by a board of trustees
2917 consisting of thirteen members dedicated to the purposes of the
2918 state university system. The board of governors shall establish
2919 the powers and duties of the boards of trustees. Each board of
2920 trustees shall consist of six citizen members appointed by the
2921 governor and five citizen members appointed by the board of
2922 governors. The appointed members shall be confirmed by the senate
2923 and serve staggered terms of five years as provided by law. The
2924 chair of the faculty senate, or the equivalent, and the president
2925 of the student body of the university shall also be members.

2926 (d) STATEWIDE BOARD OF GOVERNORS. The board of governors
2927 shall be a body corporate consisting of seventeen members. The
2928 board shall operate, regulate, control, and be fully responsible
2929 for the management of the whole university system. These

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responsibilities shall include, but not be limited to, defining the distinctive mission of each constituent university and its articulation with free public schools and community colleges, ensuring the well-planned coordination and operation of the system, and avoiding wasteful duplication of facilities or programs. The board's management shall be subject to the powers of the legislature to appropriate for the expenditure of funds, and the board shall account for such expenditures as provided by law. The governor shall appoint to the board fourteen citizens dedicated to the purposes of the state university system. The appointed members shall be confirmed by the senate and serve staggered terms of seven years as provided by law. The commissioner of education, the chair of the advisory council of faculty senates, or the equivalent, and the president of the Florida student association, or the equivalent, shall also be members of the board.

ARTICLE X
MISCELLANEOUS

SECTION 1. Amendments to United States Constitution.--The legislature shall not take action on any proposed amendment to the constitution of the United States unless a majority of the members thereof have been elected after the proposed amendment has been submitted for ratification.

SECTION 2. Militia.--

(a) The militia shall be composed of all able-bodied ~~ablebodied~~ inhabitants of the state who are or have declared their intention to become citizens of the United States, + and no person because of religious creed or opinion shall be exempted

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from military duty except upon conditions provided by law.

(b) The organizing, equipping, housing, maintaining, and disciplining of the militia, and the safekeeping of public arms may be provided for by law.

(c) The governor shall appoint all commissioned officers of the militia, including an adjutant general who shall be chief of staff. The appointment of all general officers shall be subject to confirmation by the senate.

(d) The qualifications of personnel and officers of the federally recognized national guard, including the adjutant general, and the grounds and proceedings for their discipline and removal shall conform to the appropriate United States Army or Air Force regulations and usages.

SECTION 3. Vacancy in office.--Vacancy in office shall occur upon the creation of an office, upon the death, removal from office, or resignation of the incumbent or the incumbent's succession to another office, unexplained absence for sixty consecutive days, or failure to maintain the residence required when elected or appointed, and upon failure of one elected or appointed to office to qualify within thirty days from the commencement of the term.

SECTION 4. Homestead; exemptions.--

(a) There shall be exempt from forced sale under process of any court, and no judgment, decree, or execution shall be a lien thereon, except for the payment of taxes and assessments thereon, obligations contracted for the purchase, improvement, or repair thereof, or obligations contracted for house, field, or other labor performed on the realty, the following property owned by a natural person:

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2988 (1) A homestead, if located outside a municipality, to the
2989 extent of one hundred sixty acres of contiguous land and
2990 improvements thereon, which shall not be reduced without the
2991 owner's consent by reason of subsequent inclusion in a
2992 municipality; or if located within a municipality, to the extent
2993 of one-half acre of contiguous land, upon which the exemption
2994 shall be limited to the residence of the owner or the owner's
2995 family;

2996 (2) Personal property to the value of one thousand dollars.

2997 (b) These exemptions shall inure to the surviving spouse or
2998 heirs of the owner.

2999 (c) The homestead shall not be subject to devise if the
3000 owner is survived by spouse or minor child, except the homestead
3001 may be devised to the owner's spouse if there be no minor child.

3002 The owner of homestead real estate, joined by the spouse if
3003 married, may alienate the homestead by mortgage, sale, or gift
3004 and, if married, may by deed transfer the title to an estate by
3005 the entirety with the spouse. If the owner or spouse is
3006 incompetent, the method of alienation or encumbrance shall be as
3007 provided by law.

3008 SECTION 5. Coverture and property.--There shall be no
3009 distinction between married women and married men in the holding,
3010 control, disposition, or encumbering of their property, both real
3011 and personal; except that dower or curtesy may be established and
3012 regulated by law.

3013 SECTION 6. Eminent domain.--

3014 (a) No private property shall be taken except for a public
3015 purpose and with full compensation therefor paid to each owner or
3016 secured by deposit in the registry of the court and available to

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the owner.

(b) Provision may be made by law for the taking of easements, by like proceedings, for the drainage of the land of one person over or through the land of another.

SECTION 7. Lotteries.--Lotteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution, are hereby prohibited in this state.

SECTION 8. Census.--

(a) Each decennial census of the state taken by the United States shall be an official census of the state.

(b) Each decennial census, for the purpose of classifications based upon population, shall become effective on the thirtieth day after the final adjournment of the regular session of the legislature convened next after certification of the census.

SECTION 9. Repeal of criminal statutes.--Repeal or amendment of a criminal statute shall not affect prosecution or punishment for any crime previously committed.

SECTION 10. Felony; definition.--The term "felony," as used herein and in the laws of this state, shall mean any criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by death or by imprisonment in the state penitentiary.

SECTION 11. Sovereignty lands.--The title to lands under navigable waters, within the boundaries of the state, which have not been alienated, including beaches below mean high water lines, is held by the state, by virtue of its sovereignty, in trust for all the people. Sale of such lands may be authorized by law, but only when in the public interest. Private use of

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portions of such lands may be authorized by law, but only when not contrary to the public interest.

SECTION 12. Rules of construction.--Unless qualified in the text, the following rules of construction shall apply to this constitution.

(a) "Herein" refers to the entire constitution.

(b) The singular includes the plural.

(c) The masculine includes the feminine.

(d) "Vote of the electors" means the vote of the majority of those voting on the matter in an election, general or special, in which those participating are limited to the electors of the governmental unit referred to in the text.

(e) Vote or other action of a legislative house or other governmental body means the vote or action of a majority or other specified percentage of those members voting on the matter. "Of the membership" means "of all members thereof."

(f) The terms "judicial office," "justices," and "judges" shall not include judges of courts established solely for the trial of violations of ordinances.

(g) "Special law" means a special or local law.

(h) Titles and subtitles shall not be used in construction.

SECTION 13. Suits against the state.--Provision may be made by general law for bringing suit against the state as to all liabilities now existing or hereafter originating.

SECTION 14. State retirement systems benefit changes.--A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not, after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has

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made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis.

SECTION 15. State operated lotteries.--

(a) Lotteries may be operated by the state.

(b) If any subsection or subsections of the amendment to the Florida Constitution are held unconstitutional for containing more than one subject, this amendment shall be limited to subsection (a) above.

(c) This amendment shall be implemented as follows:

(1) Schedule--On the effective date of this amendment, the lotteries shall be known as the Florida Education Lotteries. Net proceeds derived from the lotteries shall be deposited to a state trust fund, to be designated The State Education Lotteries Trust Fund, to be appropriated by the Legislature. The schedule may be amended by general law.

SECTION 16. Limiting marine net fishing.--

(a) The marine resources of the State of Florida belong to all of the people of the state and should be conserved and managed for the benefit of the state, its people, and future generations. To this end, the people hereby enact limitations on marine net fishing in Florida waters to protect saltwater finfish, shellfish, and other marine animals from unnecessary killing, overfishing, and waste.

(b) For the purpose of catching or taking any saltwater finfish, shellfish, or other marine animals in Florida waters:

(1) No gill nets or other entangling nets shall be used in any Florida waters; and

(2) In addition to the prohibition set forth in paragraph (1), no other type of net containing more than 500 square feet of

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3104 mesh area shall be used in nearshore and inshore Florida waters.
3105 Additionally, no more than two such nets, which shall not be
3106 connected, shall be used from any vessel, and no person not on a
3107 vessel shall use more than one such net in nearshore and inshore
3108 Florida waters.

3109 (c) For purposes of this section:

3110 (1) "Gill net" means one or more walls of netting which
3111 captures saltwater finfish by ensnaring or entangling them in the
3112 meshes of the net by the gills, and "entangling net" means a
3113 drift net, trammell net, stab net, or any other net which
3114 captures saltwater finfish, shellfish, or other marine animals by
3115 causing all or part of heads, fins, legs, or other body parts to
3116 become entangled or ensnared in the meshes of the net, but a
3117 hand-thrown ~~hand-thrown~~ cast net is not a gill net or an
3118 entangling net;

3119 (2) "Mesh area" of a net means the total area of netting
3120 with the meshes open to comprise the maximum square footage. The
3121 square footage shall be calculated using standard mathematical
3122 formulas for geometric shapes. Seines and other rectangular nets
3123 shall be calculated using the maximum length and maximum width of
3124 the netting. Trawls and other bag type nets shall be calculated
3125 as a cone using the maximum circumference of the net mouth to
3126 derive the radius, and the maximum length from the net mouth to
3127 the tail end of the net to derive the slant height. Calculations
3128 for any other nets or combination type nets shall be based on the
3129 shapes of the individual components;

3130 (3) "Coastline" means the territorial sea base line for the
3131 State of Florida established pursuant to the laws of the United
3132 States of America;

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(4) "Florida waters" means the waters of the Atlantic Ocean, the Gulf of Mexico, the Straits of Florida, and any other bodies of water under the jurisdiction of the State of Florida, whether coastal, intracoastal, or inland, and any part thereof; and

(5) "Nearshore and inshore Florida waters" means all Florida waters inside a line three miles seaward of the coastline along the Gulf of Mexico and inside a line one mile seaward of the coastline along the Atlantic Ocean.

(d) This section shall not apply to the use of nets for scientific research or governmental purposes.

(e) Persons violating this section shall be prosecuted and punished pursuant to the penalties provided in s. section 370.021(2)(a), (b), (c)6. and 7., and (e), Florida Statutes (1991), unless and until the legislature enacts more stringent penalties for violations hereof. On and after the effective date of this section, law enforcement officers in the state are authorized to enforce the provisions of this section in the same manner and authority as if a violation of this section constituted a violation of chapter 370, Florida Statutes (1991).

(f) It is the intent of this section that implementing legislation is not required for enforcing any violations hereof, but nothing in this section prohibits the establishment by law or pursuant to law of more restrictions on the use of nets for the purpose of catching or taking any saltwater finfish, shellfish, or other marine animals.

(g) If any portion of this section is held invalid for any reason, the remaining portion of this section, to the fullest extent possible, shall be severed from the void portion and given

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the fullest possible force and application.

(h) This section shall take effect on the July 1 next occurring after approval hereof by vote of the electors.

SECTION 17. Everglades Trust Fund.--

(a) There is hereby established the Everglades Trust Fund, which shall not be subject to termination pursuant to Article III, Section 19(f). The purpose of the Everglades Trust Fund is to make funds available to assist in conservation and protection of natural resources and abatement of water pollution in the Everglades Protection Area and the Everglades Agricultural Area. The trust fund shall be administered by the South Florida Water Management District, or its successor agency, consistent with statutory law.

(b) The Everglades Trust Fund may receive funds from any source, including gifts from individuals, corporations, or other entities; funds from general revenue as determined by the Legislature; and any other funds so designated by the Legislature, by the United States Congress, or by any other governmental entity.

(c) Funds deposited to the Everglades Trust Fund shall be expended for purposes of conservation and protection of natural resources and abatement of water pollution in the Everglades Protection Area and Everglades Agricultural Area.

(d) For purposes of this subsection, the terms "Everglades Protection Area," "Everglades Agricultural Area," and "South Florida Water Management District" shall have the meanings as defined in statutes in effect on January 1, 1996.

SECTION 18. Disposition of conservation lands.--The fee interest in real property held by an entity of the state and

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designated for natural resources conservation purposes as provided by general law shall be managed for the benefit of the citizens of this state and may be disposed of only if the members of the governing board of the entity holding title determine the property is no longer needed for conservation purposes and only upon a vote of two-thirds of the governing board.

SECTION 19. High speed ground transportation system.--To reduce traffic congestion and provide alternatives to the traveling public, it is hereby declared to be in the public interest that a high speed ground transportation system consisting of a monorail, fixed guideway or magnetic levitation system, capable of speeds in excess of 120 miles per hour, be developed and operated in the State of Florida to provide high speed ground transportation by innovative, efficient and effective technologies consisting of dedicated rails or guideways separated from motor vehicular traffic that will link the five largest urban areas of the State as determined by the Legislature and provide for access to existing air and ground transportation facilities and services. The Legislature, the Cabinet and the Governor are hereby directed to proceed with the development of such a system by the State and/or by a private entity pursuant to state approval and authorization, including the acquisition of right-of-way, the financing of design and construction of the system, and the operation of the system, as provided by specific appropriation and by law, with construction to begin on or before November 1, 2003.

SECTION 20. Workplaces without tobacco smoke.--

(a) PROHIBITION. As a Florida health initiative to protect people from the health hazards of second-hand tobacco smoke,

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3220 tobacco smoking is prohibited in enclosed indoor workplaces.

3221 (b) EXCEPTIONS. As further explained in the definitions
3222 below, tobacco smoking may be permitted in private residences
3223 whenever they are not being used commercially to provide child
3224 care, adult care, or health care, or any combination thereof; and
3225 further may be permitted in retail tobacco shops, designated
3226 smoking guest rooms at hotels and other public lodging
3227 establishments; and stand-alone bars. However, nothing in this
3228 section or in its implementing legislation or regulations shall
3229 prohibit the owner, lessee, or other person in control of the use
3230 of an enclosed indoor workplace from further prohibiting or
3231 limiting smoking therein.

3232 (c) DEFINITIONS. For purposes of this section, the
3233 following words and terms shall have the stated meanings:

3234 (1) "Smoking" means inhaling, exhaling, burning, carrying,
3235 or possessing any lighted tobacco product, including cigarettes,
3236 cigars, pipe tobacco, and any other lighted tobacco product.

3237 (2) "Second-hand smoke," also known as environmental
3238 tobacco smoke (ETS), means smoke emitted from lighted,
3239 smoldering, or burning tobacco when the smoker is not inhaling;
3240 smoke emitted at the mouthpiece during puff drawing; and smoke
3241 exhaled by the smoker.

3242 (3) "Work" means any person's providing any employment or
3243 employment-type service for or at the request of another
3244 individual or individuals or any public or private entity,
3245 whether for compensation or not, whether full or part-time,
3246 whether legally or not. "Work" includes, without limitation, any
3247 such service performed by an employee, independent contractor,
3248 agent, partner, proprietor, manager, officer, director,

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apprentice, trainee, associate, servant, volunteer, and the like.

(4) "Enclosed indoor workplace" means any place where one or more persons engages in work, and which place is predominantly or totally bounded on all sides and above by physical barriers, regardless of whether such barriers consist of or include uncovered openings, screened or otherwise partially covered openings; or open or closed windows, jalousies, doors, or the like. This section applies to all such enclosed indoor workplaces without regard to whether work is occurring at any given time.

(5) "Commercial" use of a private residence means any time during which the owner, lessee, or other person occupying or controlling the use of the private residence is furnishing in the private residence, or causing or allowing to be furnished in the private residence, child care, adult care, or health care, or any combination thereof, and receiving or expecting to receive compensation therefor.

(6) "Retail tobacco shop" means any enclosed indoor workplace dedicated to or predominantly for the retail sale of tobacco, tobacco products, and accessories for such products, in which the sale of other products or services is merely incidental.

(7) "Designated smoking guest rooms at public lodging establishments" means the sleeping rooms and directly associated private areas, such as bathrooms, living rooms, and kitchen areas, if any, rented to guests for their exclusive transient occupancy in public lodging establishments including hotels, motels, resort condominiums, transient apartments, transient lodging establishments, rooming houses, boarding houses, resort dwellings, bed and breakfast inns, and the like; and designated

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by the person or persons having management authority over such public lodging establishment as rooms in which smoking may be permitted.

(8) "Stand-alone bar" means any place of business devoted during any time of operation predominantly or totally to serving alcoholic beverages, intoxicating beverages, or intoxicating liquors, or any combination thereof, for consumption on the licensed premises; in which the serving of food, if any, is merely incidental to the consumption of any such beverage; and that is not located within, and does not share any common entryway or common indoor area with, any other enclosed indoor workplace including any business for which the sale of food or any other product or service is more than an incidental source of gross revenue.

(d) LEGISLATION. In the next regular legislative session occurring after voter approval of this amendment, the Florida Legislature shall adopt legislation to implement this amendment in a manner consistent with its broad purpose and stated terms, and having an effective date no later than July 1 of the year following voter approval. Such legislation shall include, without limitation, civil penalties for violations of this section; provisions for administrative enforcement; and the requirement and authorization of agency rules for implementation and enforcement. Nothing herein shall preclude the Legislature from enacting any law constituting or allowing a more restrictive regulation of tobacco smoking than is provided in this section.

SECTION 21. Limiting cruel and inhumane confinement of pigs during pregnancy.--Inhumane treatment of animals is a concern of Florida citizens. To prevent cruelty to certain animals and as

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recommended by The Humane Society of the United States, the people of the State of Florida hereby limit the cruel and inhumane confinement of pigs during pregnancy as provided herein.

(a) It shall be unlawful for any person to confine a pig during pregnancy in an enclosure, or to tether a pig during pregnancy, on a farm in such a way that she is prevented from turning around freely.

(b) This section shall not apply:

(1) When a pig is undergoing an examination, test, treatment, or operation carried out for veterinary purposes, provided the period during which the animal is confined or tethered is not longer than reasonably necessary.

(2) During the prebirthing period.

(c) For purposes of this section:

(1) "Enclosure" means any cage, crate, or other enclosure in which a pig is kept for all or the majority of any day, including what is commonly described as the "gestation crate."

(2) "Farm" means the land, buildings, support facilities, and other appurtenances used in the production of animals for food or fiber.

(3) "Person" means any natural person, corporation, and/or business entity.

(4) "Pig" means any animal of the porcine species.

(5) "Turning around freely" means turning around without having to touch any side of the pig's enclosure.

(6) "Prebirthing period" means the seven day period prior to a pig's expected date of giving birth.

(d) A person who violates this section shall be guilty of a misdemeanor of the first degree, punishable as provided in s.

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3336 775.082(4)(a), Florida Statutes (1999), as amended, or by a fine
 3337 of not more than \$5000, or by both imprisonment and a fine,
 3338 unless and until the legislature enacts more stringent penalties
 3339 for violations hereof. On and after the effective date of this
 3340 section, law enforcement officers in the state are authorized to
 3341 enforce the provisions of this section in the same manner and
 3342 authority as if a violation of this section constituted a
 3343 violation of s. Section 828.13, Florida Statutes (1999). The
 3344 confinement or tethering of each pig shall constitute a separate
 3345 offense. The knowledge or acts of agents and employees of a
 3346 person in regard to a pig owned, farmed, or in the custody of a
 3347 person, shall be held to be the knowledge or act of such person.

3348 (e) It is the intent of this section that implementing
 3349 legislation is not required for enforcing any violations hereof.

3350 (f) If any portion of this section is held invalid for any
 3351 reason, the remaining portion of this section, to the fullest
 3352 extent possible, shall be severed from the void portion and given
 3353 the fullest possible force and application.

3354 (g) This section shall take effect six years after approval
 3355 by the electors.

3356 SECTION 22. Parental notice of termination of a minor's
 3357 pregnancy.--The Legislature shall not limit or deny the privacy
 3358 right guaranteed to a minor under the United States Constitution
 3359 as interpreted by the United States Supreme Court.
 3360 Notwithstanding a minor's right of privacy provided in Section 23
 3361 of Article I, the Legislature is authorized to require by general
 3362 law for notification to a parent or guardian of a minor before
 3363 the termination of the minor's pregnancy. The Legislature shall
 3364 provide exceptions to such requirement for notification and shall

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create a process for judicial waiver of the notification.

SECTION 23. Slot machines.--

(a) After voter approval of this constitutional amendment, the governing bodies of Miami-Dade and Broward Counties each may hold a county-wide referendum in their respective counties on whether to authorize slot machines within existing, licensed pari-mutuel ~~parimutuel~~ facilities (thoroughbred and harness racing, greyhound racing, and jai-alai) that have conducted live racing or games in that county during each of the last two calendar years before the effective date of this amendment. If the voters of such county approve the referendum question by majority vote, slot machines shall be authorized in such ~~parimutuel~~ facilities. If the voters of such county by majority vote disapprove the referendum question, slot machines shall not be so authorized, and the question shall not be presented in another referendum in that county for at least two years.

(b) In the next regular Legislative session occurring after voter approval of this constitutional amendment, the Legislature shall adopt legislation implementing this section and having an effective date no later than July 1 of the year following voter approval of this amendment. Such legislation shall authorize agency rules for implementation, and may include provisions for the licensure and regulation of slot machines. The Legislature may tax slot machine revenues, and any such taxes must supplement public education funding statewide.

(c) If any part of this section is held invalid for any reason, the remaining portion or portions shall be severed from the invalid portion and given the fullest possible force and effect.

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(d) This amendment shall become effective when approved by vote of the electors of the state.

SECTION 24. Florida minimum wage.--

(a) PUBLIC POLICY. All working Floridians are entitled to be paid a minimum wage that is sufficient to provide a decent and healthy life for them and their families, that protects their employers from unfair low-wage competition, and that does not force them to rely on taxpayer-funded public services in order to avoid economic hardship.

(b) DEFINITIONS. As used in this amendment, the terms "employer," "employee," and "wage" shall have the meanings established under the federal Fair Labor Standards Act (FLSA) and its implementing regulations.

(c) MINIMUM WAGE. Employers shall pay employees wages no less than the minimum wage for all hours worked in Florida. Six months after enactment, the minimum wage shall be established at an hourly rate of \$6.15. On September 30th of that year and on each following September 30th, the state Agency for Workforce Innovation shall calculate an adjusted minimum wage rate by increasing the current minimum wage rate by the rate of inflation during the twelve months prior to each September 1st using the consumer price index for urban wage earners and clerical workers, CPI-W, or a successor index as calculated by the United States Department of Labor. Each adjusted minimum wage rate calculated shall be published and take effect on the following January 1st. For tipped employees meeting eligibility requirements for the tip credit under the FLSA, employers may credit towards satisfaction of the minimum wage tips up to the amount of the allowable FLSA tip credit in 2003.

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(d) RETALIATION PROHIBITED. It shall be unlawful for an employer or any other party to discriminate in any manner or take adverse action against any person in retaliation for exercising rights protected under this amendment. Rights protected under this amendment include, but are not limited to, the right to file a complaint or inform any person about any party's alleged noncompliance with this amendment, and the right to inform any person of his or her potential rights under this amendment and to assist him or her in asserting such rights.

(e) ENFORCEMENT. Persons aggrieved by a violation of this amendment may bring a civil action in a court of competent jurisdiction against an employer or person violating this amendment and, upon prevailing, shall recover the full amount of any back wages unlawfully withheld plus the same amount as liquidated damages, and shall be awarded reasonable attorney's fees and costs. In addition, they shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation including, without limitation, reinstatement in employment and/or injunctive relief. Any employer or other person found liable for willfully violating this amendment shall also be subject to a fine payable to the state in the amount of \$1000.00 for each violation. The state attorney general or other official designated by the state legislature may also bring a civil action to enforce this amendment. Actions to enforce this amendment shall be subject to a statute of limitations of four years or, in the case of willful violations, five years. Such actions may be brought as a class action pursuant to Rule 1.220 of the Florida Rules of Civil Procedure.

(f) ADDITIONAL LEGISLATION, IMPLEMENTATION, AND

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CONSTRUCTION. Implementing legislation is not required in order to enforce this amendment. The state legislature may by statute establish additional remedies or fines for violations of this amendment, raise the applicable minimum wage rate, reduce the tip credit, or extend coverage of the minimum wage to employers or employees not covered by this amendment. The state legislature may by statute or the state Agency for Workforce Innovation may by regulation adopt any measures appropriate for the implementation of this amendment. This amendment provides for payment of a minimum wage and shall not be construed to preempt or otherwise limit the authority of the state legislature or any other public body to adopt or enforce any other law, regulation, requirement, policy, or standard that provides for payment of higher or supplemental wages or benefits, or that extends such protections to employers or employees not covered by this amendment. It is intended that case law, administrative interpretations, and other guiding standards developed under the federal FLSA shall guide the construction of this amendment and any implementing statutes or regulations.

(g) SEVERABILITY. If any part of this amendment, or the application of this amendment to any person or circumstance, is held invalid, the remainder of this amendment, including the application of such part to other persons or circumstances, shall not be affected by such a holding and shall continue in full force and effect. To this end, the parts of this amendment are severable.

SECTION 25. Patients' right to know about adverse medical incidents.--

(a) In addition to any other similar rights provided herein

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3481 or by general law, patients have a right to have access to any
3482 records made or received in the course of business by a health
3483 care facility or provider relating to any adverse medical
3484 incident.

3485 (b) In providing such access, the identity of patients
3486 involved in the incidents shall not be disclosed, and any privacy
3487 restrictions imposed by federal law shall be maintained.

3488 (c) For purposes of this section, the following terms have
3489 the following meanings:

3490 (1) The phrases "health care facility" and "health care
3491 provider" have the meaning given in general law related to a
3492 patient's rights and responsibilities.

3493 (2) The term "patient" means an individual who has sought,
3494 is seeking, is undergoing, or has undergone care or treatment in
3495 a health care facility or by a health care provider.

3496 (3) The phrase "adverse medical incident" means medical
3497 negligence, intentional misconduct, and any other act, neglect,
3498 or default of a health care facility or health care provider that
3499 caused or could have caused injury to or death of a patient,
3500 including, but not limited to, those incidents that are required
3501 by state or federal law to be reported to any governmental agency
3502 or body, and incidents that are reported to or reviewed by any
3503 health care facility peer review, risk management, quality
3504 assurance, credentials, or similar committee, or any
3505 representative of any such committees.

3506 (4) The phrase "have access to any records" means, in
3507 addition to any other procedure for producing such records
3508 provided by general law, making the records available for
3509 inspection and copying upon formal or informal request by the

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patient or a representative of the patient, provided that current records which have been made publicly available by publication or on the Internet may be "provided" by reference to the location at which the records are publicly available.

SECTION 26. Prohibition of medical license after repeated medical malpractice.--

(a) No person who has been found to have committed three or more incidents of medical malpractice shall be licensed or continue to be licensed by the State of Florida to provide health care services as a medical doctor.

(b) For purposes of this section, the following terms have the following meanings:

(1) The phrase "medical malpractice" means both the failure to practice medicine in Florida with that level of care, skill, and treatment recognized in general law related to health care providers' licensure, and any similar wrongful act, neglect, or default in other states or countries which, if committed in Florida, would have been considered medical malpractice.

(2) The phrase "found to have committed" means that the malpractice has been found in a final judgment of a court of law, final administrative agency decision, or decision of binding arbitration.

ARTICLE XI

AMENDMENTS

SECTION 1. Proposal by legislature.--Amendment of a section or revision of one or more articles, or the whole, of this constitution may be proposed by joint resolution agreed to by three-fifths of the membership of each house of the legislature.

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The full text of the joint resolution and the vote of each member voting shall be entered on the journal of each house.

SECTION 2. Revision commission.--

(a) Within thirty days before the convening of the 2017 regular session of the legislature, and each twentieth year thereafter, there shall be established a constitution revision commission composed of the following thirty-seven members:

(1) The attorney general of the state;

(2) Fifteen members selected by the governor;

(3) Nine members selected by the speaker of the house of representatives and nine members selected by the president of the senate; and

(4) Three members selected by the chief justice of the supreme court of Florida with the advice of the justices.

(b) The governor shall designate one member of the commission as its chair. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments.

(c) Each constitution revision commission shall convene at the call of its chair, adopt its rules of procedure, examine the constitution of the state, hold public hearings, and, not later than one hundred eighty days prior to the next general election, file with the custodian of state records its proposal, if any, of a revision of this constitution or any part of it.

SECTION 3. Initiative.--The power to propose the revision or amendment of any portion or portions of this constitution by initiative is reserved to the people, provided that, any such revision or amendment, except for those limiting the power of government to raise revenue, shall embrace but one subject and

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3568 matter directly connected therewith. It may be invoked by filing
3569 with the custodian of state records a petition containing a copy
3570 of the proposed revision or amendment, signed by a number of
3571 electors in each of one half of the congressional districts of
3572 the state, and of the state as a whole, equal to eight percent of
3573 the votes cast in each of such districts respectively and in the
3574 state as a whole in the last preceding election in which
3575 presidential electors were chosen.

3576 SECTION 4. Constitutional convention.--

3577 (a) The power to call a convention to consider a revision
3578 of the entire constitution is reserved to the people. It may be
3579 invoked by filing with the custodian of state records a petition,
3580 containing a declaration that a constitutional convention is
3581 desired, signed by a number of electors in each of one half of
3582 the congressional districts of the state, and of the state as a
3583 whole, equal to fifteen per cent of the votes cast in each such
3584 district respectively and in the state as a whole in the last
3585 preceding election of presidential electors.

3586 (b) At the next general election held more than ninety days
3587 after the filing of such petition, there shall be submitted to
3588 the electors of the state the question: "Shall a constitutional
3589 convention be held?" If a majority voting on the question votes
3590 in the affirmative, at the next succeeding general election there
3591 shall be elected from each representative district a member of a
3592 constitutional convention. On the twenty-first day following that
3593 election, the convention shall sit at the capital, elect
3594 officers, adopt rules of procedure, judge the election of its
3595 membership, and fix a time and place for its future meetings. Not
3596 later than ninety days before the next succeeding general

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election, the convention shall cause to be filed with the custodian of state records any revision of this constitution proposed by it.

SECTION 5. Amendment or revision election.--

(a) A proposed amendment to or revision of this constitution, or any part of it, shall be submitted to the electors at the next general election held more than ninety days after the joint resolution or report of revision commission, constitutional convention, or taxation and budget reform commission proposing it is filed with the custodian of state records, unless, pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the legislature and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety days after such filing.

(b) A proposed amendment or revision of this constitution, or any part of it, by initiative shall be submitted to the electors at the general election provided the initiative petition is filed with the custodian of state records no later than February 1 of the year in which the general election is held.

(c) The legislature shall provide by general law, prior to the holding of an election pursuant to this section, for the provision of a statement to the public regarding the probable financial impact of any amendment proposed by initiative pursuant to section 3.

(d) Once in the tenth week, and once in the sixth week immediately preceding the week in which the election is held, the proposed amendment or revision, with notice of the date of election at which it will be submitted to the electors, shall be

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published in one newspaper of general circulation in each county in which a newspaper is published.

(e) If the proposed amendment or revision is approved by vote of the electors, it shall be effective as an amendment to or revision of the constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.

SECTION 6. Taxation and budget reform commission.--

(a) Beginning in 2007 and each twentieth year thereafter, there shall be established a taxation and budget reform commission composed of the following members:

(1) Eleven members selected by the governor, none of whom shall be a member of the legislature at the time of appointment.

(2) Seven members selected by the speaker of the house of representatives and seven members selected by the president of the senate, none of whom shall be a member of the legislature at the time of appointment.

(3) Four non-voting ex officio members, all of whom shall be members of the legislature at the time of appointment. Two of these members, one of whom shall be a member of the minority party in the house of representatives, shall be selected by the speaker of the house of representatives, and two of these members, one of whom shall be a member of the minority party in the senate, shall be selected by the president of the senate.

(b) Vacancies in the membership of the commission shall be filled in the same manner as the original appointments.

(c) At its initial meeting, the members of the commission shall elect a member who is not a member of the legislature to serve as chair and the commission shall adopt its rules of

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3655 procedure. Thereafter, the commission shall convene at the call
3656 of the chair. An affirmative vote of two thirds of the full
3657 commission shall be necessary for any revision of this
3658 constitution or any part of it to be proposed by the commission.

3659 (d) The commission shall examine the state budgetary
3660 process, the revenue needs and expenditure processes of the
3661 state, the appropriateness of the tax structure of the state, and
3662 governmental productivity and efficiency; review policy as it
3663 relates to the ability of state and local government to tax and
3664 adequately fund governmental operations and capital facilities
3665 required to meet the state's needs during the next twenty year
3666 period; determine methods favored by the citizens of the state to
3667 fund the needs of the state, including alternative methods for
3668 raising sufficient revenues for the needs of the state; determine
3669 measures that could be instituted to effectively gather funds
3670 from existing tax sources; examine constitutional limitations on
3671 taxation and expenditures at the state and local level; and
3672 review the state's comprehensive planning, budgeting, and needs
3673 assessment processes to determine whether the resulting
3674 information adequately supports a strategic decisionmaking
3675 process.

3676 (e) The commission shall hold public hearings as it deems
3677 necessary to carry out its responsibilities under this section.
3678 The commission shall issue a report of the results of the review
3679 carried out, and propose to the legislature any recommended
3680 statutory changes related to the taxation or budgetary laws of
3681 the state. Not later than one hundred eighty days prior to the
3682 general election in the second year following the year in which
3683 the commission is established, the commission shall file with the

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custodian of state records its proposal, if any, of a revision of this constitution or any part of it dealing with taxation or the state budgetary process.

SECTION 7. Tax or fee limitation.--Notwithstanding Article X, Section 12(d) of this constitution, no new state tax or fee shall be imposed on or after November 8, 1994, by any amendment to this constitution unless the proposed amendment is approved by not fewer than two-thirds of the voters voting in the election in which such proposed amendment is considered. For purposes of this section, the phrase "new state tax or fee" shall mean any tax or fee which would produce revenue subject to lump sum or other appropriation by the Legislature, either for the state general revenue fund or any trust fund, which tax or fee is not in effect on November 7, 1994, including without limitation such taxes and fees as are the subject of proposed constitutional amendments appearing on the ballot on November 8, 1994. This section shall apply to proposed constitutional amendments relating to state taxes or fees which appear on the November 8, 1994, ballot, or later ballots, and any such proposed amendment which fails to gain the two-thirds vote required hereby shall be null, void, and without effect.

ARTICLE XII

SCHEDULE

SECTION 1. Constitution of 1885 superseded.--Articles I through IV, VII, and IX through XX of the Constitution of Florida adopted in 1885, as amended from time to time, are superseded by this revision except those sections expressly retained and made a part of this revision by reference.

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SECTION 2. Property taxes; millages.--Tax millages authorized in counties, municipalities, and special districts, on the date this revision becomes effective, may be continued until reduced by law.

~~SECTION 3. Officers to continue in office. Every person holding office when this revision becomes effective shall continue in office for the remainder of the term if that office is not abolished. If the office is abolished the incumbent shall be paid adequate compensation, to be fixed by law, for the loss of emoluments for the remainder of the term.~~

SECTION 4. State commissioner of education.--The state superintendent of public instruction in office on the effective date of this revision shall become and, for the remainder of the term being served, shall be the commissioner of education.

SECTION 5. Superintendent of schools.--

(a) On the effective date of this revision the county superintendent of public instruction of each county shall become and, for the remainder of the term being served, shall be the superintendent of schools of that district.

(b) The method of selection of the county superintendent of public instruction of each county, as provided by or under the Constitution of 1885, as amended, shall apply to the selection of the district superintendent of schools until changed as herein provided.

SECTION 6. Laws preserved.--

(a) All laws in effect upon the adoption of this revision, to the extent not inconsistent with it, shall remain in force until they expire by their terms or are repealed.

(b) All statutes which, under the Constitution of 1885, as

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amended, apply to the state superintendent of public instruction and those which apply to the county superintendent of public instruction shall under this revision apply, respectively, to the state commissioner of education and the district superintendent of schools.

SECTION 7. Rights reserved.--

(a) All actions, rights of action, claims, contracts, and obligations of individuals, corporations, and public bodies or agencies existing on the date this revision becomes effective shall continue to be valid as if this revision had not been adopted. All taxes, penalties, fines and forfeitures owing to the state under the Constitution of 1885, as amended, shall inure to the state under this revision, and all sentences as punishment for crime shall be executed according to their terms.

(b) This revision shall not be retroactive so as to create any right or liability which did not exist under the Constitution of 1885, as amended, based upon matters occurring prior to the adoption of this revision.

SECTION 8. Public debts recognized.--All bonds, revenue certificates, revenue bonds, and tax anticipation certificates issued pursuant to the Constitution of 1885, as amended by the state, any agency, political subdivision, or public corporation of the state shall remain in full force and effect and shall be secured by the same sources of revenue as before the adoption of this revision, and, to the extent necessary to effectuate this section, the applicable provisions of the Constitution of 1885, as amended, are retained as a part of this revision until payment in full of these public securities.

SECTION 9. Bonds.--

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3771 (a) ADDITIONAL SECURITIES.

3772 (1) Article IX, Section 17, of the Constitution of 1885, as
3773 amended, as it existed immediately before this Constitution, as
3774 revised in 1968, became effective, is adopted by this reference
3775 as a part of this revision as completely as though incorporated
3776 herein verbatim, except revenue bonds, revenue certificates, or
3777 other evidences of indebtedness hereafter issued thereunder may
3778 be issued by the agency of the state so authorized by law.

3779 (2) That portion of Article XII, Section 9(a) ~~9, Subsection~~
3780 ~~(a)~~ of this Constitution, as amended, which by reference adopted
3781 Article XII, Section 19 of the Constitution of 1885, as amended,
3782 as the same existed immediately before the effective date of this
3783 amendment is adopted by this reference as part of this revision
3784 as completely as though incorporated herein verbatim, for the
3785 purpose of providing that after the effective date of this
3786 amendment all of the proceeds of the revenues derived from the
3787 gross receipts taxes, as therein defined, collected in each year
3788 shall be applied as provided therein to the extent necessary to
3789 comply with all obligations to or for the benefit of holders of
3790 bonds or certificates issued before the effective date of this
3791 amendment or any refundings thereof which are secured by such
3792 gross receipts taxes. No bonds or other obligations may be
3793 issued pursuant to the provisions of Article XII, Section 19, of
3794 the Constitution of 1885, as amended, but this provision shall
3795 not be construed to prevent the refunding of any such outstanding
3796 bonds or obligations pursuant to the provisions of this
3797 subsection (a) (2).

3798 Subject to the requirements of the first paragraph of this
3799 subsection (a) (2), beginning July 1, 1975, all of the proceeds of

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3800 the revenues derived from the gross receipts taxes collected from
 3801 every person, including municipalities, as provided and levied
 3802 pursuant to the provisions of chapter 203, Florida Statutes, as
 3803 such chapter is amended from time to time, shall, as collected,
 3804 be placed in a trust fund to be known as the "public education
 3805 capital outlay and debt service trust fund" in the state treasury
 3806 (hereinafter referred to as "capital outlay fund"), and used only
 3807 as provided herein.

3808 The capital outlay fund shall be administered by the state
 3809 board of education as created and constituted by Section 2, ~~of~~
 3810 Article IX of the Constitution of Florida as revised in 1968
 3811 (hereinafter referred to as "state board"), or by such other
 3812 instrumentality of the state which shall hereafter succeed by law
 3813 to the powers, duties, and functions of the state board,
 3814 including the powers, duties, and functions of the state board
 3815 provided in this subsection (a) (2). The state board shall be a
 3816 body corporate and shall have all the powers provided herein in
 3817 addition to all other constitutional and statutory powers related
 3818 to the purposes of this subsection (a) (2) heretofore or hereafter
 3819 conferred by law upon the state board, or its predecessor created
 3820 by the Constitution of 1885, as amended.

3821 State bonds pledging the full faith and credit of the state
 3822 may be issued, without a vote of the electors, by the state board
 3823 pursuant to law to finance or refinance capital projects
 3824 theretofore authorized by the legislature, and any purposes
 3825 appurtenant or incidental thereto, for the state system of public
 3826 education provided for in Section 1, ~~of~~ Article IX of this
 3827 Constitution (hereinafter referred to as "state system"),
 3828 including but not limited to institutions of higher learning,

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3829 community colleges, vocational technical schools, or public
3830 schools, as now defined or as may hereafter be defined by law.
3831 All such bonds shall mature not later than thirty years after the
3832 date of issuance thereof. All other details of such bonds shall
3833 be as provided by law or by the proceedings authorizing such
3834 bonds; provided, however, that no bonds, except refunding bonds,
3835 shall be issued, and no proceeds shall be expended for the cost
3836 of any capital project, unless such project has been authorized
3837 by the legislature.

3838 Bonds issued pursuant to this subsection (a)(2) shall be
3839 primarily payable from such revenues derived from gross receipts
3840 taxes, and shall be additionally secured by the full faith and
3841 credit of the state. No such bonds shall ever be issued in an
3842 amount exceeding ninety percent of the amount which the state
3843 board determines can be serviced by the revenues derived from the
3844 gross receipts taxes accruing thereafter under the provisions of
3845 this subsection (a)(2), and such determination shall be
3846 conclusive.

3847 The moneys in the capital outlay fund in each fiscal year
3848 shall be used only for the following purposes and in the
3849 following order of priority:

3850 a. For the payment of the principal of and interest on any
3851 bonds due in such fiscal year;

3852 b. For the deposit into any reserve funds provided for in
3853 the proceedings authorizing the issuance of bonds of any amounts
3854 required to be deposited in such reserve funds in such fiscal
3855 year;

3856 c. For direct payment of the cost or any part of the cost
3857 of any capital project for the state system theretofore

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authorized by the legislature, or for the purchase or redemption of outstanding bonds in accordance with the provisions of the proceedings which authorized the issuance of such bonds, or for the purpose of maintaining, restoring, or repairing existing public educational facilities.

(b) REFUNDING BONDS. Revenue bonds to finance the cost of state capital projects issued prior to the date this revision becomes effective, including projects of the Florida state turnpike authority or its successor but excluding all portions of the state highway system, may be refunded as provided by law without vote of the electors at a lower net average interest cost rate by the issuance of bonds maturing not later than the obligations refunded, secured by the same revenues only.

(c) MOTOR VEHICLE FUEL TAXES.

(1) A state tax, designated "second gas tax," of two cents per gallon upon gasoline and other like products of petroleum and an equivalent tax upon other sources of energy used to propel motor vehicles as levied by Article IX, Section 16, of the Constitution of 1885, as amended, is hereby continued. The proceeds of said tax shall be placed monthly in the state roads distribution fund in the state treasury.

(2) Article IX, Section 16, of the Constitution of 1885, as amended, is adopted by this reference as a part of this revision as completely as though incorporated herein verbatim for the purpose of providing that after the effective date of this revision the proceeds of the "second gas tax" as referred to therein shall be allocated among the several counties in accordance with the formula stated therein to the extent necessary to comply with all obligations to or for the benefit of

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holders of bonds, revenue certificates, and tax anticipation certificates or any refundings thereof secured by any portion of the "second gas tax."

(3) No funds anticipated to be allocated under the formula stated in Article IX, Section 16, of the Constitution of 1885, as amended, shall be pledged as security for any obligation hereafter issued or entered into, except that any outstanding obligations previously issued pledging revenues allocated under said Article IX, Section 16, may be refunded at a lower average net interest cost rate by the issuance of refunding bonds, maturing not later than the obligations refunded, secured by the same revenues and any other security authorized in paragraph (5) of this subsection.

(4) Subject to the requirements of paragraph (2) of this subsection and after payment of administrative expenses, the "second gas tax" shall be allocated to the account of each of the several counties in the amounts to be determined as follows: There shall be an initial allocation of one-fourth in the ratio of county area to state area, one-fourth in the ratio of the total county population to the total population of the state in accordance with the latest available federal census, and one-half in the ratio of the total "second gas tax" collected on retail sales or use in each county to the total collected in all counties of the state during the previous fiscal year. If the annual debt service requirements of any obligations issued for any county, including any deficiencies for prior years, secured under paragraph (2) of this subsection, exceeds the amount which would be allocated to that county under the formula set out in this paragraph, the amounts allocated to other counties shall be

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3916 reduced proportionately.

3917 (5) Funds allocated under paragraphs (2) and (4) of this
3918 subsection shall be administered by the state board of
3919 administration created under Article IV, Section 4. The board
3920 shall remit the proceeds of the "second gas tax" in each county
3921 account for use in said county as follows: eighty per cent to the
3922 state agency supervising the state road system and twenty per
3923 cent to the governing body of the county. The percentage
3924 allocated to the county may be increased by general law. The
3925 proceeds of the "second gas tax" subject to allocation to the
3926 several counties under this paragraph (5) shall be used first,
3927 for the payment of obligations pledging revenues allocated
3928 pursuant to Article IX, Section 16, of the Constitution of 1885,
3929 as amended, and any refundings thereof; second, for the payment
3930 of debt service on bonds issued as provided by this paragraph (5)
3931 to finance the acquisition and construction of roads as defined
3932 by law; and third, for the acquisition and construction of roads
3933 and for road maintenance as authorized by law. When authorized by
3934 law, state bonds pledging the full faith and credit of the state
3935 may be issued without any election: (i) to refund obligations
3936 secured by any portion of the "second gas tax" allocated to a
3937 county under Article IX, Section 16, of the Constitution of 1885,
3938 as amended; (ii) to finance the acquisition and construction of
3939 roads in a county when approved by the governing body of the
3940 county and the state agency supervising the state road system;
3941 and (iii) to refund obligations secured by any portion of the
3942 "second gas tax" allocated under paragraph 9(c)(4). No such bonds
3943 shall be issued unless a state fiscal agency created by law has
3944 made a determination that in no state fiscal year will the debt

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service requirements of the bonds and all other bonds secured by the pledged portion of the "second gas tax" allocated to the county exceed seventy-five per cent of the pledged portion of the "second gas tax" allocated to that county for the preceding state fiscal year, of the pledged net tolls from existing facilities collected in the preceding state fiscal year, and of the annual average net tolls anticipated during the first five state fiscal years of operation of new projects to be financed, and of any other legally available pledged revenues collected in the preceding state fiscal year. Bonds issued pursuant to this subsection shall be payable primarily from the pledged tolls, the pledged portions of the "second gas tax" allocated to that county, and any other pledged revenue, and shall mature not later than forty years from the date of issuance.

(d) SCHOOL BONDS.

(1) Article XII, Section 9(d) ~~9, Subsection (d)~~ of this constitution, as amended, (which, by reference, adopted Article XII, Section 18, of the Constitution of 1885, as amended), as the same existed immediately before the effective date of this amendment is adopted by this reference as part of this amendment as completely as though incorporated herein verbatim, for the purpose of providing that after the effective date of this amendment the first proceeds of the revenues derived from the licensing of motor vehicles as referred to therein shall be distributed annually among the several counties in the ratio of the number of instruction units in each county, the same being coterminous ~~coterminus~~ with the school district of each county as provided in Article IX, Section 4(a) ~~4, Subsection (a)~~ of this constitution, in each year computed as provided therein to the

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extent necessary to comply with all obligations to or for the benefit of holders of bonds or motor vehicle tax anticipation certificates issued before the effective date of this amendment or any refundings thereof which are secured by any portion of such revenues derived from the licensing of motor vehicles.

(2) No funds anticipated to be distributed annually among the several counties under the formula stated in Article XII, Section 9(d) ~~9, Subsection (d)~~ of this constitution, as amended, as the same existed immediately before the effective date of this amendment shall be pledged as security for any obligations hereafter issued or entered into, except that any outstanding obligations previously issued pledging such funds may be refunded by the issuance of refunding bonds.

(3) Subject to the requirements of subsection (d) (1) ~~paragraph (1) of this subsection (d)~~ beginning July 1, 1973, the first proceeds of the revenues derived from the licensing of motor vehicles (hereinafter called "motor vehicle license revenues") to the extent necessary to comply with the provisions of this amendment, shall, as collected, be placed monthly in the school district and community college district capital outlay and debt service fund in the state treasury and used only as provided in this amendment. Such revenue shall be distributed annually among the several school districts and community college districts in the ratio of the number of instruction units in each school district or community college district in each year computed as provided herein. The amount of the first motor vehicle license revenues to be so set aside in each year and distributed as provided herein shall be an amount equal in the aggregate to the product of six hundred dollars (\$600) multiplied

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4003 by the total number of instruction units in all the school
 4004 districts of Florida for the school fiscal year 1967-68, plus an
 4005 amount equal in the aggregate to the product of eight hundred
 4006 dollars (\$800) multiplied by the total number of instruction
 4007 units in all the school districts of Florida for the school
 4008 fiscal year 1972-73 and for each school fiscal year thereafter
 4009 which is in excess of the total number of such instruction units
 4010 in all the school districts of Florida for the school fiscal year
 4011 1967-68, such excess units being designated "growth units." The
 4012 amount of the first motor vehicle license revenues to be so set
 4013 aside in each year and distributed as provided herein shall
 4014 additionally be an amount equal in the aggregate to the product
 4015 of four hundred dollars (\$400) multiplied by the total number of
 4016 instruction units in all community college districts of Florida.
 4017 The number of instruction units in each school district or
 4018 community college district in each year for the purposes of this
 4019 amendment shall be the greater of (1) the number of instruction
 4020 units in each school district for the school fiscal year 1967-68
 4021 or community college district for the school fiscal year 1968-69
 4022 computed in the manner heretofore provided by general law, or (2)
 4023 the number of instruction units in such school district,
 4024 including growth units, or community college district for the
 4025 school fiscal year computed in the manner heretofore or hereafter
 4026 provided by general law and approved by the state board of
 4027 education (hereinafter called the state board), or (3) the number
 4028 of instruction units in each school district, including growth
 4029 units, or community college district on behalf of which the state
 4030 board has issued bonds or motor vehicle license revenue
 4031 anticipation certificates under this amendment which will produce

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sufficient revenues under this amendment to equal one and twelve-hundredths (1.12) times the aggregate amount of principal of and interest on all bonds or motor vehicle license revenue anticipation certificates issued under this amendment which will mature and become due in such year, computed in the manner heretofore or hereafter provided by general law and approved by the state board.

(4) Such funds so distributed shall be administered by the state board as now created and constituted by Section 2, of Article IX of the State Constitution as revised in 1968, or by such other instrumentality of the state which shall hereafter succeed by law to the powers, duties, and functions of the state board, including the powers, duties, and functions of the state board provided in this amendment. For the purposes of this amendment, said state board shall be a body corporate and shall have all the powers provided in this amendment in addition to all other constitutional and statutory powers related to the purposes of this amendment heretofore or hereafter conferred upon said state board.

(5) The state board shall, in addition to its other constitutional and statutory powers, have the management, control, and supervision of the proceeds of the first motor vehicle license revenues provided for in this subsection (d). The state board shall also have power, for the purpose of obtaining funds for the use of any school board of any school district or board of trustees of any community college district in acquiring, building, constructing, altering, remodeling, improving, enlarging, furnishing, equipping, maintaining, renovating, or repairing of capital outlay projects for school

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4061 purposes to issue bonds or motor vehicle license revenue
4062 anticipation certificates, and also to issue such bonds or motor
4063 vehicle license revenue anticipation certificates to pay, fund,
4064 or refund any bonds or motor vehicle license revenue anticipation
4065 certificates theretofore issued by said state board. All such
4066 bonds or motor vehicle license revenue anticipation certificates
4067 shall bear interest at not exceeding the rate provided by general
4068 law and shall mature not later than thirty years after the date
4069 of issuance thereof. The state board shall have power to
4070 determine all other details of the bonds or motor vehicle license
4071 revenue anticipation certificates and to sell in the manner
4072 provided by general law, or exchange the bonds or motor vehicle
4073 license revenue anticipation certificates, upon such terms and
4074 conditions as the state board shall provide.

4075 (6) The state board shall also have power to pledge for the
4076 payment of the principal of and interest on such bonds or motor
4077 vehicle license revenue anticipation certificates, including
4078 refunding bonds or refunding motor vehicle license revenue
4079 anticipation certificates, all or any part from the motor vehicle
4080 license revenues provided for in this amendment and to enter into
4081 any covenants and other agreements with the holders of such bonds
4082 or motor vehicle license revenue anticipation certificates at the
4083 time of the issuance thereof concerning the security thereof and
4084 the rights of the holders thereof, all of which covenants and
4085 agreements shall constitute legally binding and irrevocable
4086 contracts with such holders and shall be fully enforceable by
4087 such holders in any court of competent jurisdiction.

4088 (7) No such bonds or motor vehicle license revenue
4089 anticipation certificates shall ever be issued by the state

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4090 board, except to refund outstanding bonds or motor vehicle
4091 license revenue anticipation certificates, until after the
4092 adoption of a resolution requesting the issuance thereof by the
4093 school board of the school district or board of trustees of the
4094 community college district on behalf of which the obligations are
4095 to be issued. The state board of education shall limit the
4096 amount of such bonds or motor vehicle license revenue
4097 anticipation certificates which can be issued on behalf of any
4098 school district or community college district to ninety percent
4099 (90%) of the amount which it determines can be serviced by the
4100 revenue accruing to the school district or community college
4101 district under the provisions of this amendment, and shall
4102 determine the reasonable allocation of the interest savings from
4103 the issuance of refunding bonds or motor vehicle license revenue
4104 anticipation certificates, and such determinations shall be
4105 conclusive. All such bonds or motor vehicle license revenue
4106 anticipation certificates shall be issued in the name of the
4107 state board of education but shall be issued for and on behalf of
4108 the school board of the school district or board of trustees of
4109 the community college district requesting the issuance thereof,
4110 and no election or approval of qualified electors shall be
4111 required for the issuance thereof.

4112 (8) The state board shall in each year use the funds
4113 distributable pursuant to this amendment to the credit of each
4114 school district or community college district only in the
4115 following manner and in order of priority:

4116 a. To comply with the requirements of subsection (d) (1)
4117 ~~paragraph (1) of this subsection (d).~~

4118 b. To pay all amounts of principal and interest due in such

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4119 | year on any bonds or motor vehicle license revenue anticipation
4120 | certificates issued under the authority hereof, including
4121 | refunding bonds or motor vehicle license revenue anticipation
4122 | certificates, issued on behalf of the school board of such school
4123 | district or board of trustees of such community college district;
4124 | subject, however, to any covenants or agreements made by the
4125 | state board concerning the rights between holders of different
4126 | issues of such bonds or motor vehicle license revenue
4127 | anticipation certificates, as herein authorized.

4128 | c. To establish and maintain a sinking fund or funds to
4129 | meet future requirements for debt service or reserves therefor,
4130 | on bonds or motor vehicle license revenue anticipation
4131 | certificates issued on behalf of the school board of such school
4132 | district or board of trustees of such community college district
4133 | under the authority hereof, whenever the state board shall deem
4134 | it necessary or advisable, and in such amounts and under such
4135 | terms and conditions as the state board shall in its discretion
4136 | determine.

4137 | d. To distribute annually to the several school boards of
4138 | the school districts or the boards of trustees of the community
4139 | college districts for use in payment of debt service on bonds
4140 | heretofore or hereafter issued by any such school boards of the
4141 | school districts or boards of trustees of the community college
4142 | districts where the proceeds of the bonds were used, or are to be
4143 | used, in the acquiring, building, constructing, altering,
4144 | remodeling, improving, enlarging, furnishing, equipping,
4145 | maintaining, renovating, or repairing of capital outlay projects
4146 | in such school districts or community college districts and which
4147 | capital outlay projects have been approved by the school board of

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4148 the school district or board of trustees of the community college
 4149 district, pursuant to the most recent survey or surveys conducted
 4150 under regulations prescribed by the state board to determine the
 4151 capital outlay needs of the school district or community college
 4152 district. The state board shall have power at the time of
 4153 issuance of any bonds by any school board of any school district
 4154 or board of trustees of any community college district to
 4155 covenant and agree with such school board or board of trustees as
 4156 to the rank and priority of payments to be made for different
 4157 issues of bonds under this subparagraph d., and may further agree
 4158 that any amounts to be distributed under this subparagraph d. may
 4159 be pledged for the debt service on bonds issued by any school
 4160 board of any school district or board of trustees of any
 4161 community college district and for the rank and priority of such
 4162 pledge. Any such covenants or agreements of the state board may
 4163 be enforced by any holders of such bonds in any court of
 4164 competent jurisdiction.

4165 e. To pay the expenses of the state board in administering
 4166 this subsection (d), which shall be prorated among the various
 4167 school districts and community college districts and paid out of
 4168 the proceeds of the bonds or motor vehicle license revenue
 4169 anticipation certificates or from the funds distributable to each
 4170 school district and community college district on the same basis
 4171 as such motor vehicle license revenues are distributable to the
 4172 various school districts and community college districts.

4173 f. To distribute annually to the several school boards of
 4174 the school districts or boards of trustees of the community
 4175 college districts for the payment of the cost of acquiring,
 4176 building, constructing, altering, remodeling, improving,

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4177 enlarging, furnishing, equipping, maintaining, renovating, or
4178 repairing of capital outlay projects for school purposes in such
4179 school district or community college district as shall be
4180 requested by resolution of the school board of the school
4181 district or board of trustees of the community college district.

4182 g. When all major capital outlay needs of a school district
4183 or community college district have been met as determined by the
4184 state board, on the basis of a survey made pursuant to
4185 regulations of the state board and approved by the state board,
4186 all such funds remaining shall be distributed annually and used
4187 for such school purposes in such school district or community
4188 college district as the school board of the school district or
4189 board of trustees of the community college district shall
4190 determine, or as may be provided by general law.

4191 (9) Capital outlay projects of a school district or
4192 community college district shall be eligible to participate in
4193 the funds accruing under this amendment and derived from the
4194 proceeds of bonds and motor vehicle license revenue anticipation
4195 certificates and from the motor vehicle license revenues, only in
4196 the order of priority of needs, as shown by a survey or surveys
4197 conducted in the school district or community college district
4198 under regulations prescribed by the state board, to determine the
4199 capital outlay needs of the school district or community college
4200 district and approved by the state board; provided that the
4201 priority of such projects may be changed from time to time upon
4202 the request of the school board of the school district or board
4203 of trustees of the community college district and with the
4204 approval of the state board; and provided, further, that this
4205 paragraph ~~(9)~~ shall not in any manner affect any covenant,

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agreement, or pledge made by the state board in the issuance by said state board of any bonds or motor vehicle license revenue anticipation certificates, or in connection with the issuance of any bonds of any school board of any school district or board of trustees of any community college district.

(10) The state board shall have power to make and enforce all rules and regulations necessary to the full exercise of the powers herein granted and no legislation shall be required to render this amendment of full force and operating effect. The legislature shall not reduce the levies of said motor vehicle license revenues during the life of this amendment to any degree which will fail to provide the full amount necessary to comply with the provisions of this amendment and pay the necessary expenses of administering the laws relating to the licensing of motor vehicles, and shall not enact any law having the effect of withdrawing the proceeds of such motor vehicle license revenues from the operation of this amendment and shall not enact any law impairing or materially altering the rights of the holders of any bonds or motor vehicle license revenue anticipation certificates issued pursuant to this amendment or impairing or altering any covenant or agreement of the state board, as provided in such bonds or motor vehicle license revenue anticipation certificates.

(11) Bonds issued by the state board pursuant to this subsection ~~(d)~~ shall be payable primarily from said motor vehicle license revenues as provided herein, and if heretofore or hereafter authorized by law, may be additionally secured by pledging the full faith and credit of the state without an election. When heretofore or hereafter authorized by law, bonds issued pursuant to Article XII, Section 18 of the Constitution of

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4235 1885, as amended prior to 1968, and bonds issued pursuant to
4236 Article XII, Section 9(d) ~~9, subsection (d)~~ of the Constitution
4237 as revised in 1968, and bonds issued pursuant to this subsection
4238 ~~(d)~~, may be refunded by the issuance of bonds additionally
4239 secured by the full faith and credit of the state.

4240 (e) DEBT LIMITATION. Bonds issued pursuant to this Section
4241 9, of Article XII which are payable primarily from revenues
4242 pledged pursuant to this section shall not be included in
4243 applying the limits upon the amount of state bonds contained in
4244 Section 11, Article VII, of this revision.

4245 SECTION 10. Preservation of existing government.--All
4246 provisions of Articles I through IV, VII, and IX through XX of
4247 the Constitution of 1885, as amended, not embraced herein which
4248 are not inconsistent with this revision shall become statutes
4249 subject to modification or repeal as are other statutes.

4250 SECTION 11. Deletion of obsolete schedule items.--The
4251 legislature shall have power, by joint resolution, to delete from
4252 this revision any section of this Article XII, including this
4253 section, when all events to which the section to be deleted is or
4254 could become applicable have occurred. A legislative
4255 determination of fact made as a basis for application of this
4256 section shall be subject to judicial review.

4257 SECTION 12. Senators.--The requirements of staggered terms
4258 of senators in Section 15(a), of Article III of this revision
4259 shall apply only to senators elected in November, 1972, and
4260 thereafter.

4261 SECTION 13. Legislative apportionment.--The requirements of
4262 legislative apportionment in Section 16, of Article III of this
4263 revision shall apply only to the apportionment of the legislature

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following the decennial census of 1970, and thereafter.

SECTION 14. Representatives; terms.--The legislature at its first regular session following the ratification of this revision, by joint resolution, shall propose to the electors of the state for ratification or rejection in the general election of 1970 an amendment to Article III, Section 15(b), of the constitution providing staggered terms of four years for members of the house of representatives.

SECTION 15. Special district taxes.--Ad valorem taxing power vested by law in special districts existing when this revision becomes effective shall not be abrogated by Section 9(b) of Article VII herein, but such powers, except to the extent necessary to pay outstanding debts, may be restricted or withdrawn by law.

~~SECTION 16. Reorganization. The requirement of Section 6, Article IV of this revision shall not apply until July 1, 1969.~~

SECTION 17. Conflicting provisions.--This schedule is designed to effect the orderly transition of government from the Constitution of 1885, as amended, to this revision and shall control in all cases of conflict with any part of Article I through IV, VII, and IX through XI herein.

~~SECTION 18. Bonds for housing and related facilities.-- Section 16 of Article VII, providing for bonds for housing and related facilities, shall take effect upon approval by the electors.~~

~~SECTION 19. Renewable energy source property.--The amendment to Section 3 of Article VII, relating to an exemption for a renewable energy source device and real property on which such device is installed, if adopted at the special election in~~

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4293 ~~October 1980, shall take effect January 1, 1981.~~

4294 ~~SECTION 20. Access to public records. Section 24 of~~
4295 ~~Article I, relating to access to public records, shall take~~
4296 ~~effect July 1, 1993.~~

4297 SECTION 21. State revenue limitation.--The amendment to
4298 Section 1, of Article VII limiting state revenues shall take
4299 effect January 1, 1995, and shall first be applicable to state
4300 fiscal year 1995-1996.

4301 SECTION 22. Historic property exemption and assessment.--
4302 The amendments to Sections 3 and 4, of Article VII relating to ad
4303 valorem tax exemption for, and assessment of, historic property
4304 shall take effect January 1, 1999.

4305 SECTION 23. Fish and wildlife conservation commission.--

4306 (a) The initial members of the commission shall be the
4307 members of the game and fresh water fish commission and the
4308 marine fisheries commission who are serving on those commissions
4309 on the effective date of this amendment, who may serve the
4310 remainder of their respective terms. New appointments to the
4311 commission shall not be made until the retirement, resignation,
4312 removal, or expiration of the terms of the initial members
4313 results in fewer than seven members remaining.

4314 (b) The jurisdiction of the marine fisheries commission as
4315 set forth in statutes in effect on March 1, 1998, shall be
4316 transferred to the fish and wildlife conservation commission. The
4317 jurisdiction of the marine fisheries commission transferred to
4318 the commission shall not be expanded except as provided by
4319 general law. All rules of the marine fisheries commission and
4320 game and fresh water fish commission in effect on the effective
4321 date of this amendment shall become rules of the fish and

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wildlife conservation commission until superseded or amended by the commission.

(c) On the effective date of this amendment, the marine fisheries commission and game and fresh water fish commission shall be abolished.

(d) This amendment shall take effect July 1, 1999.

SECTION 24. Executive branch reform.--

(a) The amendments contained in this revision shall take effect January 7, 2003, but shall govern with respect to the qualifying for and the holding of primary elections in 2002. The office of chief financial officer shall be a new office as a result of this revision.

(b) In the event the secretary of state is removed as a cabinet office in the 1998 general election, the term "custodian of state records" shall be substituted for the term "secretary of state" throughout the constitution and the duties previously performed by the secretary of state shall be as provided by law.

~~SECTION 25. Schedule to Article V amendment.--~~

~~(a) Commencing with fiscal year 2000-2001, the legislature shall appropriate funds to pay for the salaries, costs, and expenses set forth in the amendment to Section 14 of Article V pursuant to a phase in schedule established by general law.~~

~~(b) Unless otherwise provided herein, the amendment to Section 14 shall be fully effectuated by July 1, 2004.~~

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

MULTIPLE ARTICLES

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4350 OBSOLETE AND ERRONEOUS PROVISIONS.--Proposing revisions to
 4351 multiple articles of the State Constitution to delete obsolete
 4352 provisions and to correct grammar errors and inconsistencies in
 4353 wording.

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AMENDMENT WORKSHEET FOR MEMBERS FOR THE WORKSHOP ON STREAMLING
FLORIDA'S CONSTITUTION – items added since 1968

DISCRIPTION	SOURCE	Repeal	Revise	Transfer
Sunshine Amendment	Initiative			
State Operated Lotteries	Initiative			
English is the Official Language of Florida	Initiative			
Homestead Valuation Limitation – Save Our Homes	Initiative			
Limited Political Terms in Certain Elective Offices	Initiative			
Limiting Marine Net Fishing	Initiative			
Amendments Limiting Government Revenue May Cover Multiple Subjects	Initiative			
Everglades Trust Fund	Initiative			
Responsibility for Paying Costs of Water Pollution Abatement in the Everglades	Initiative			
Florida's Amendment to Reduce Class Size	Initiative			
Local Trustees and Statewide Governing Board to Manage Florida's University System	Initiative			
Animal Cruelty Amendment: Limiting Cruel and Inhumane Confinement of Pigs During Pregnancy	Initiative			
Voluntary Universal Pre-Kindergarten Education	Initiative			
Protect People from the Health Hazards of Second-Hand Tobacco Smoke by Prohibiting Workplace Smoking	Initiative			
Medical Liability Claimant's Compensation	Initiative			
Dade & Broward; Slot Machines	Initiative			
Minimum Wage	Initiative			
Patient's Right to Know About Adverse Incidents	Initiative			
Public Protection From Repeated Malpractice	Initiative			
Firearms – Waiting Period	Legislature			
Right of Privacy	Legislature			
Parental Notice of Termination of a Minor's Pregnancy	Legislature			

Other Issues:

Technical fix – Taxation and Budget Reform Commission to put measures on the ballot of “the **next** general election” rather than “the general election in the second year following the year in which the commission is established.”

ART X, s. 1 – held unconstitutional by Federal District Court in 1973: Amendments to United States Constitution.--The legislature shall not take action on any proposed amendment to the constitution of the United States unless a majority of the members thereof have been elected after the proposed amendment has been submitted for ratification.

County and Circuit Courts opting out of elected judges and choosing merit selection and retention.